MONTANA LEGISLATIVE HISTORY

Chapter 91 1999

Bill H _____ S 6 Original bill & history ____C

H. Committee on Business and Industry		S. Committee on Business and Industry	
Hearing Date(s) Mar 04	✓ C	Hearing Date(s) Jan 08	✓ C
_____	____C	_____	____C
_____	____C	_____	____C
_____	____C	_____	____C
Date Out Mar 04	✓ C	Jan 08	✓ C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

SENATE BILL NO. 6

INTRODUCED BY HAZELBAKER

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO BANKS, BUILDING AND LOAN ASSOCIATIONS, CREDIT UNIONS, DEVELOPMENT CREDIT CORPORATIONS, AND CONSUMER LOAN BUSINESSES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 5-102, R.C.M. 1947, is amended to read as follows:

"5-102. Institutions to which act is applicable. (1) The word ~~"Bank"~~ "bank" as used in this ~~act~~ title, ~~shall be construed to mean~~ means any corporation which ~~shall have~~ has been incorporated to conduct the business of receiving money on deposit, or transacting a trust or investment business ~~as hereinafter defined~~.

(2) The soliciting, receiving, or accepting of money or its equivalent on deposit as a regular business, ~~shall be deemed to be~~ is doing a commercial or savings bank business, whether such deposit is made subject to check or is evidenced by a certificate of deposit, a passbook, a note, or other receipt, provided, that nothing herein ~~shall apply~~ applies to or ~~include~~ includes money or its equivalent left in escrow, or left with an agent pending investment in real estate or securities for or on account of his principal.

(3) It ~~shall be~~ is unlawful for any corporation, partnership, firm, or individual to engage in or transact a banking business within this state, except by means of a corporation duly organized for such purpose.

(4) Banks are divided into the following classes:

(a) ~~Commercial Banks,~~ commercial banks;

(b) ~~Savings Banks,~~ savings banks;

(c) ~~Trust Companies,~~ trust companies;

(d) ~~Investment Companies,~~ investment companies.

~~provided, further, however, that this act shall not apply to any person, firm or association now doing a private banking business; provided, however, that said private banks hereinabove referred to shall come under all of the provisions of this act which may be fairly applicable thereto; provided further, however, that this act shall not~~

(5) This title does not apply to any investment company or corporation, ~~heretofore~~ established prior to March 8, 1927, under authority of the law of Montana, not accepting, receiving, ~~and~~ or holding money on deposit."

Section 2. Section 5-202.1, R.C.M. 1947, is amended to read as follows:

"5-202.1. Board to refuse or approve application. The board may refuse or approve an application for a certificate of authorization in accordance with ~~sections 5-607~~ 5-610

through 5-614."

Section 3. Section 5-403, R.C.M. 1947, is amended to read as follows:

"5-403. Scope of term "liquidating officer" — department of business regulation to file inventory with district court — report. (1) For the purpose of this section the term "liquidating officer" includes every person legally empowered to liquidate the business and affairs of a state bank, whether the liquidation is by the department of business regulation or its deputies and agents. The term also includes all receivers of state banks qualified to liquidate a state bank under any law of this state.

(2) The liquidating officer of a bank may decide when the assets of a failed bank are not sufficient to pay the debts, contracts, engagements, and liabilities, and he may determine the question of the time when and the court where necessary legal proceedings shall be conducted, subject to the general provisions of law governing venue and place of trial. ~~For the purposes of this section the term "liquidating officer" includes every person legally empowered to liquidate the business and affairs of a state bank whether the liquidation is by the department of business regulation, its deputies and agents and also includes all receivers of state banks qualified to liquidate a state bank under any law of this state.~~

(3) The provisions of this chapter do not impose any liability on a stockholder of a bank which is a member of the ~~Federal Deposit Insurance Corporation~~ federal deposit insurance corporation.

(4) The department shall, within ~~ninety (90)~~ days after taking charge of an insolvent bank, file with the district court having jurisdiction a complete inventory of all of the property and assets of the insolvent bank, such as furniture, fixtures, real estate, mortgages, bonds, and notes, secured and unsecured. It shall also every ~~six (6)~~ months, or more often, if required by the court, file with the court a report showing the ~~conditions~~ status of the liquidation of the bank, the assets that have been liquidated and collected, the amounts and manner of payments made to creditors, the manner in which claims have been handled, and the assets on hand. The report shall contain other information the court requires, so that the court and the public may be apprised of the condition of the bank and the manner in which it is being liquidated with respect to the collection and sale of assets belonging to the bank and the manner in which claims are being paid. The report and account shall be set for hearing upon the notice the court may require and, if found to be correct, shall be approved by the court."

Section 4. Section 5-504, R.C.M. 1947, is amended to

read as follows:

"5-504. Real estate which banks may purchase, hold, or convey. (1) A bank organized under the provisions of this act may purchase, hold, or convey real estate which:

(a) ~~It~~ is necessary for the proper transaction of its business, but it shall not invest an amount exceeding ~~fifty per cent (50%)~~ of its paid-up capital and surplus in the lot and building in which the business of the company is carried on, furniture, equipment and fixtures, vaults and safety vaults, and boxes necessary or proper to carry on its banking business;

(b) ~~It~~ is mortgaged to it in good faith by way of security for loans previously made or moneys due to the ~~corporations~~ bank;

(c) ~~It~~ is conveyed to it in satisfaction of debts previously contracted in the course of its business;

(d) ~~It~~ it purchases at sales under judgments, decrees, or mortgages held by the ~~company~~ bank.

(2) Real estate acquired in the manner set forth in subsections (1)(c) and (1)(d) of this section may not be held longer than ~~five (5)~~ years from the date of acquisition, unless special written permission to do so is granted by the department ~~of business regulation~~. The real estate shall be carried on the books of the bank for an amount not greater than its cost to the bank, including

costs of foreclosure and other expenses of acquiring title."

Section 5. Section 5-506, R.C.M. 1947, is amended to read as follows:

"5-506. Limitation on real estate loans. (1) A ~~commercial~~ bank organized under the laws of this state may make real estate loans, secured by first liens upon improved real estate, including improved farm land and improved business and residential properties, and may purchase an obligation so secured when the entire amount of the obligation is sold to the bank. The amount of the loan may not exceed ~~fifty percent (50%)~~ of the appraised value of the real estate offered as security, and the loan may not be made for a longer period than ~~five (5)~~ years, except that:

(a) ~~The~~ the loan may be made in an amount not to exceed ~~sixty percent (60%)~~ of the appraised value of the real estate offered as security and for a term not longer than ~~twenty (20)~~ years if the loan is secured by an amortized mortgage, deed of trust, or similar instrument, under the terms of which the installment payments are sufficient to amortize ~~forty percent (40%)~~ or more of the principal of the loan within not more than ~~twenty (20)~~ years; and

(b) ~~A commercial~~ a bank may not make those loans in an aggregate sum in excess of the amount of its capital stock paid in and unimpaired plus the amount of its unimpaired

surplus or in excess of ~~sixty percent (60%)~~ of the amount of its time and saving deposits, whichever is greater.

(2) Loans made to finance the construction of residential or farm buildings and having maturities of not to exceed ~~six (6)~~ months, whether or not secured by a mortgage or a similar lien on real estate upon which the residential or farm building is being constructed, are not loans secured by real estate within the meaning of this section, but shall be classed as ordinary commercial loans. A ~~commercial~~ bank may not invest in or be liable on any of those loans in an aggregate amount in excess of ~~fifty percent (50%)~~ of its actually paid-in and unimpaired capital.

(3) Loans made to establish rural or commercial businesses, which are in whole or in part discounted or lo. ed against as security by a federal reserve bank for any part of which a commitment has been made by a federal reserve bank or in which an agency of the federal government ~~co-operated~~ cooperated or ~~purchases~~ purchased a participation in, are not subject to the restrictions or limitations of this section upon loans secured by real estate. A ~~commercial~~ bank in this state has from time to time the same authority to make loans upon real estate which may be given by acts of ~~Congress~~ congress or the federal reserve system to national banks or bank members of the

federal reserve system.

(4) The limitations and restrictions imposed by this section do not prevent the renewal or extension of loans made before February 18, 1941, and do not apply to real estate loans which are insured under the provisions of any act of ~~Congress~~ congress. Those limitations and restrictions do not apply to the making, extension, or renewal of any loans made under subchapter II of the act of ~~Congress~~ congress known as the Servicemen's Readjustment Act of 1944, or any amendment or supplement to that act.

(5) This section, however, does not prevent a bank from taking another and immediately subsequent mortgage or deed of trust when it already holds a first mortgage or deed of trust on the real estate, or from accepting a second lien on real estate to secure the repayment of a debt previously contracted in good faith. These provisions do not prevent subsequent liens of any kind from being taken to secure the payment of a debt previously contracted in good faith, when, in the judgment of the directors of the bank, the subsequent liens are necessary further to secure the payment of any debts and save the bank from loss. ~~"Commercial bank" as used in this section means a bank organized to do only the business specified in sections 5-104 to 5-107.~~"

Section 6. Section 5-508, R.C.M. 1947, is amended to read as follows:

"5-508. ~~Business prohibited unless under department — use of certain words prohibited — court may enjoin~~ When advertising as bank prohibited — trade names restricted. (1) A person, firm, company, ~~copartnership~~ partnership, or corporation, either domestic or foreign, not subject to the supervision of the department, and not required by the provisions of this act to report to it, and which has not received a certificate to do a banking business from the department, may not:

(a) advertise that he or it is receiving or accepting money or savings for deposit, investment, or otherwise, and issuing notices or certificates of deposit therefor; or

(b) use an office sign, at the place where the business is transacted, having on it an artificial or corporate name, or other words indicating that:

(i) the place or office is the place or office of a bank or trust company;

~~or that~~ (ii) deposits are received there or payments made on check; or

(iii) any other form of banking business is transacted there.

(2) That person, ~~or persons,~~ firm, company, ~~copartnership~~ partnership, or corporation, domestic or foreign, may not use or circulate letterheads, ~~bill heads~~ billheads, blank notes, blank receipts, certificates, or

circulars, or any written or printed or partly written and partly printed paper, whatever, having on them an artificial or corporate name or other word or words indicating that the business is the business of a bank, savings bank, or trust or investment company.

(3) That person, firm, company, ~~copartnership~~ partnership, or corporation, or any agent of a foreign corporation, not having an established place of business in the state, may not solicit or receive deposits or transact business in the way or manner of a bank, savings bank, trust, or investment company, or in a manner which leads the public to believe that its business is that of a bank, savings bank, trust, or investment company.

(4) A person, firm, company, ~~copartnership~~ partnership, or corporation, domestic or foreign, not subject to the supervision of the department, and not required by the provisions of this act to report to it, and which has not received from the department a certificate to do a banking business, may not transact business under a name or title which contains the word "bank", "banker", "banking", "savings bank", "saving", "trust", "trustee", "trust company", or "investment company".

(5) A person, firm, company, ~~copartnership~~ partnership, or corporation, domestic or foreign, violating a provision of this section shall forfeit to the state ~~one~~

~~hundred dollars ($100)~~ a day for every day or part of a day during which the violation continues.

(6) Upon suit by the department, the court may issue an injunction restraining that person, firm, company, ~~copartnership~~ partnership, or corporation during pendency of the action and permanently from further using those words in violation of the provisions of this section~~,~~ or from further transacting business in a manner which leads the public to believe that its business is that of a bank, savings bank, trust, or investment company~~, during the pendency of the action and permanently,~~ and may enter any other order or decree as equity and justice require."

Section 7. Section 5-517, R.C.M. 1947, is amended to read as follows:

"5-517. Limit on amount of bond issue. No commercial bank ~~shall~~ may purchase, agree to purchase, or underwrite any bond issue in excess of ~~ten per centum~~ 10% of its assets, except bonds of the United States, of the state of Montana, or of the cities, towns, counties, or school districts of this state."

Section 8. Section 5-519, R.C.M. 1947, is amended to read as follows:

"5-519. ~~Obtaining property by fraud -- false report -- refusal to permit inspection of books~~ Fraud by director, officer, or employee. A director, officer, agent, or

employee of a bank is guilty of a felony who:

(1) ~~Knowingly~~ knowingly receives or possesses himself of any of its property, otherwise than in payment for a just demand, and with intent to defraud~~,~~:

(a) omits to make or to cause or direct to be made a full and true entry of it in its books and account; or~~,~~

~~(2)~~ (b) ~~Conceals~~ conceals in omitting to make any material entry thereof; ~~or,~~

~~(3)~~ (2) ~~Knowingly~~ knowingly concurs in making or publishing any written report, exhibit, or statement of its affairs or pecuniary condition~~,~~ containing any material statement which is false; or~~,~~

~~(4)~~ (3) ~~Having~~ having the custody or control of its books, willfully refuses or neglects to make a proper entry in the books of that corporation as required by law, ~~or~~ to exhibit them, or allow them to be inspected and extracts to be taken from them by the department~~, is guilty of a felony~~."

Section 9. Section 5-530, R.C.M. 1947, is amended to read as follows:

"5-530. Deposit by minor. Whenever any deposit shall be made in any bank~~, and~~ by ~~and~~ or in the name of any minor, the same shall be held for the exclusive right and benefit of such minor~~,~~ and free from the control or lien of all persons whatsoever, except creditors, and shall be paid,

with any interest due thereon, to the person in whose name the deposit ~~shall have been~~ was made, and the receipt of such minor ~~shall be~~ is a sufficient release or discharge for such deposit to the bank."

Section 10. Section 5-604, R.C.M. 1947, is amended to read as follows:

"5-604. Director ~~of business regulation~~ and employees not to be interested in banks. Neither the director of the department of business regulation nor any bank examiner may be interested in or a borrower from any state bank, directly or indirectly."

Section 11. Section 5-609, R.C.M. 1947, is amended to read as follows:

"5-609. ~~Secretary~~ State banking board — secretary ~~of board~~ — meetings ~~of board~~ — per diem ~~quorum - remuneration~~. (1) The ~~board~~ state banking board, established by 82A-407, shall elect from its members a secretary to serve at the pleasure of the board.

(2) In performing its functions the board shall have use of the offices, equipment, and personnel of the department ~~of business regulation~~ as it requires.

(3) The board shall hold regular meetings each quarter at a fixed date and time at the office of the department ~~of business regulation~~. Special meetings may be called at any time by the chairman upon ~~three (3) days~~ days' notice to the

members.

(4) A quorum for all meetings shall be a majority of the board members, and action may be taken by a majority of the quorum present at any meeting.

(5) The chairman shall have a voice but no vote in all meetings except to break a tie.

(6) Any board member except the chairman may be removed by the governor without cause in any case.

(7) The board members, except the chairman, shall be paid ~~twenty-five dollars ($25)~~ per day or any part thereof devoted to the performance of their duties, and actual and reasonable expenses incurred in the performance of their duties and mileage as provided by law to state officers. The costs and expenses of the board shall be legitimate charges of the department ~~of business regulation~~."

Section 12. Section 5-610, R.C.M. 1947, is amended to read as follows:

"5-610. Powers and duties of board. The state banking board shall:

(1) make final determinations upon applications for certificates of authorization for new banks, mergers, consolidations, and relocations of banks;

(2) act in an advisory capacity with respect to the duties and powers given by statute or otherwise to the director of the department of business regulation as ~~said~~

the duties and powers relate to banking."

Section 13. Section 5-611, R.C.M. 1947, is amended to read as follows:

"5-611. Rules adopted by board — new banks. The board shall adopt rules necessary for the administration of ~~this act~~ 5-609 through 5-614 in accordance with the Montana Administrative Procedure Act ~~[82-4201 to 82-4225]~~. In particular, the board shall adopt rules concerning the authorization of new banks. Such rules shall contain minimum standards under which an application for a new bank shall be determined, including the following:

(1) a persuasive showing that there is a reasonable public necessity and demand for a new bank at the proposed location;

(2) that the bank will be owned and managed by persons of good moral character and financial integrity, and will be safely and soundly operated;

(3) a persuasive showing that the new bank will have a sufficient volume of business to assure solvency and that establishment of the new bank will be in the public interest."

Section 14. Section 5-702, R.C.M. 1947, is amended to read as follows:

"5-702. Report of declaration of dividend. In addition to the ~~statement~~ report required by ~~section~~ 5-701, a bank

shall report to the department within ~~ten (10)~~ days after declaring any dividend, showing the amount of the dividend and the amount of net earnings in excess of the dividend. The ~~statement~~ report shall be attested as provided ~~for~~ in ~~the attestation of statement by section~~ 5-701."

Section 15. Section 5-707, R.C.M. 1947, is amended to read as follows:

"5-707. False statements and entries ~~deemed~~ considered felony. Every officer or other person authorized by this act, who willfully and knowingly makes any false statement of facts, statement of account, or report, and every officer, agent, or clerk of any bank who willfully and knowingly makes any false entries in the books of such bank, or knowingly subscribes or exhibits false papers, with the intent to deceive any person authorized to examine such bank, and every person authorized by the provisions of this act to make statements or reports, who willfully and knowingly subscribes or makes any false statement or report, ~~shall be deemed~~ is guilty of a felony, and, upon conviction thereof, shall be imprisoned ~~at hard labor~~ in the state prison for a term of not less than ~~one (1) nor~~ or more than ~~ten (10)~~ years."

Section 16. Section 5-802, R.C.M. 1947, is amended to read as follows:

"5-802. Penalty for receiving deposits when insolvent,

or for making false statements. Any officer, agent, or clerk of any bank, knowing such bank to be insolvent, who receives money, bank bills, notes of the United States, or currency, or other bills or drafts circulating as money or currency, except in the manner set forth in the succeeding section, ~~or who~~ subscribes or makes any false statements or entries in the books of such bank, ~~or~~, knowingly subscribes or exhibits any false paper with the intent to deceive any person authorized to examine as to the condition of such bank, or willfully subscribes or makes false reports, ~~shall be~~ is subject to imprisonment ~~at hard labor~~ in the state prison for a term not exceeding ~~five (5)~~ years."

Section 17. Section 5-1002, R.C.M. 1947, is amended to read as follows:

"5-1002. Change from state to national bank. Any bank may become a corporation for the purpose of carrying on the business of banking in this state, under the act of ~~Congress~~ congress "to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof", approved June 3, 1864, and ~~of~~ under Title 52 of the Revised Statutes of the United States, when stockholders owning two-thirds ~~(2/3)~~ of the stock of the bank have voted to become such corporation, or have executed a written consent authorizing its directors to make the certificate required therefor by the laws of the United

States, or when a majority of the directors of the bank, having been authorized in their discretion to make the change, shall, by a vote of the majority, decide to become such corporation. The cashier of the bank shall publish notice thereof for ~~thirty (30)~~ days in the newspaper which the directors select, and send a like printed notice by mail or otherwise to all nonvoting or dissenting stockholders, and notify the department of business regulation that the bank has decided to become a corporation under the laws of the United States."

Section 18. Section 5-1019, R.C.M. 1947, is amended to read as follows:

"5-1019. Special examination defined. ~~An~~ A special examination is an examination made by the department otherwise than in the ordinary routine of the department, ~~and~~ because, in its opinion, the condition of the bank requires the examination, ~~and~~ or an examination made at the request of the board of directors or stockholders of a bank, ~~is a special examination~~."

Section 19. Section 5-1021, R.C.M. 1947, is amended to read as follows:

"5-1021. Consolidation or merger of banks. ~~(1)~~ The words "bank" or "banks" as used in this section include commercial banks, savings banks, trust companies, investment companies, and other such corporations carrying on the

business of banking, trust company, or investment company under the laws of this state or doing business in this state under the national banking laws of the United States.

(2) Any two or more banks doing business in this state, may, with the approval of the state banking board, in the case of state banks, consolidate, ~~join and~~ or merge into one bank ~~under, into and with the charter of either existing bank hereinafter referred to as the consolidated bank~~, on such terms and conditions as may be lawfully agreed upon by a majority of the board of directors of each bank proposing to consolidate, ~~and be ratified and confirmed~~ or merge. Such consolidation or merger, before it becomes effective, must be ratified by the consent in writing of the shareholders of each such bank owning at least two-thirds of its capital stock outstanding, provided, that the capital stock of such consolidated or merged bank ~~shall~~ may not be less than that required under existing law for the organization of a bank of the class of the largest of the banks so consolidating.

(3) Upon such consolidation or merger, the corporate franchise, corporate life, being, and existence, and the corporate rights, powers, duties, privileges, franchises, and obligations, including the rights, powers, duties, privileges, and obligations as trustee, executor, administrator, guardian, and all and every right, power,

duty, privilege, and obligation as fiduciary, together with title to every species of property, real, personal, and mixed, of such consolidating or merging bank and banks shall, without the necessity of any instrument of transfer, ~~be and~~ become consolidated or merged and continued in and held, enjoyed, and/~~or~~ assumed by the consolidated or merged bank, and such ~~consolidated~~ bank shall have and enjoy the right equal as to priorities with any other applicant to appointment by the courts to the offices of executor, administrator, guardian, ~~and/~~or trustee under any will or other instrument made prior to such consolidation or merger and by which will or instrument such consolidating or merging bank was nominated by the maker to such office.

~~The word "bank" or "banks" as used in this section, shall be held to include commercial banks, savings banks, trust companies, investment companies and other such corporations carrying on the business of banking, trust company or investment company under the laws of this state or doing business in this state under the national banking laws of the United States.~~"

Section 20. Section 5-1027, R.C.M. 1947, is amended to read as follows:

"5-1027. Department may make rules. The department ~~shall have the authority to make and~~ may promulgate reasonable rules and orders ~~in the matter of~~ concerning

bookkeeping and accounting by state banks, including the keeping of reasonable credit information, ~~or~~ information in connection with assets, ~~and for~~ or information in connection with ~~charged off~~ charged-off items."

Section 21. Section 5-1032, R.C.M. 1947, is amended to read as follows:

"5-1032. Bonding of employees. (1) ~~It shall be the duty of the~~ The board of directors of every bank ~~to~~ shall require that all officers and employees of banks whose duty includes the handling of moneys, notes, bonds, credits, and cash items, and whose duties include bookkeeping ~~and/~~or the making of entries in relation to the business of the bank and its customers, be bonded.

(2) The board of directors shall by order ~~duly~~ entered upon the ~~minutes~~ minute books of the board designate the officers and employees to be bonded and the amount of bonds to be given. Such action as to the personnel, ~~and~~ the amount of bonds, and the surety company or sureties ~~to be~~ is subject to approval by the department, and the bonds ~~to~~ shall be in such form as ~~shall be~~ is provided or approved by the department.

(3) ~~the~~ The bonds ~~to~~ shall be approved by the president of the bank and his action reported to the board of directors.

(4) ~~all~~ All bonds required by this section ~~to~~ shall be

kept in the custody of the bank subject to inspection by examiners from the department; provided, as far as possible, they ~~shall~~ may not be placed in the custody of the officer or employee for whom the same is given."

Section 22. Section 5-1039, R.C.M. 1947, is amended to read as follows:

"5-1039. Giving security for deposit prohibited -- exceptions. It ~~shall be~~ is unlawful for any bank to pledge, mortgage, or hypothecate to any depositor any of its real or personal property as security for any deposit, and any pledge, mortgage, or hypothecation made in violation thereof ~~shall be~~ is unenforceable, ~~provided, however, that this~~ This provision ~~shall~~ does not apply to any deposits of money of the United States, ~~and~~ public funds deposited in accordance with the provisions of any depository act of this state, or the United States, or bankruptcy estate funds or deposits, ~~also~~ including deposits of receivers or trustees in bankruptcy, deposited under the direction and supervision of a court of record of the state of Montana or of the United States."

Section 23. Section 5-1055, R.C.M. 1947, is amended to read as follows:

"5-1055. Closing on Saturdays authorized -- Saturday treated as holiday. Any bank, ~~which term for the purposes of this act shall mean any corporation~~ as defined in ~~section~~

~~5-102, including commercial banks and trust companies, as more particularly defined in sections 5-104, 5-105 and 5-106,~~ and any national bank or national banking association incorporated or organized under the laws of the United States of America and any federal reserve bank may, at its election, remain closed and refrain from the transaction of any business on Saturdays~~,~~ ~~and any~~ Any Saturday on which any such bank remains closed shall be, with respect to such bank, a holiday and not a business day. Any act~~,~~ authorized, required, or permitted to be performed on a Saturday at or by~~,~~ or with respect to any bank ~~as herein defined~~, including any national bank or national banking association~~,~~ and any federal reserve bank~~, on a Saturday,~~ may be performed on the next succeeding business day, and no liability or loss of any rights of any kind shall result from such closing on Saturday~~,~~ or from the nonopening of any bank for the transaction of business on any Saturday under the authority of this act~~, for the transaction of business~~."

Section 24. Section 5-1106, R.C.M. 1947, is amended to read as follows:

"5-1106. Resumption after closing. After the department has taken possession of a bank, it may permit that bank to resume business upon conditions which may be approved by ~~it~~ the department."

Section 25. Section 5-1115, R.C.M. 1947, is amended to

read as follows:

"5-1115. Claims — partial payments. (1) The department need not await the expiration of the time allowed for filing claims, as fixed in the notice to the creditors, for the payment of dividends. It may, in its discretion~~,~~ and if under the circumstances of the particular case it considers it expedient and safe, at any time after taking possession of the bank and prior to the expiration of the period fixed for filing of claims, if it has on hand in cash sufficient funds over and above the expenses of liquidation, make pro rata distribution to any class of creditors next entitled to distribution, in the order of priority fixed in this chapter, making that payment to the creditors as they appear on the books and records of the bank and determining the priority and basing ~~his~~ its apportionment on the amount shown to be due by the books and records.

(2) At any time after the expiration of the date fixed for the presentation of claims against the bank and from time to time thereafter~~,~~ when, in its discretion, there are sufficient funds available, the department shall, after making proper provisions for the payment of expenses of liquidation, declare and pay dividends to all creditors of the bank pro rata in the order of their priority. If, after the time fixed for presentation of claims against the bank has expired, it appears that a person, prior to the

expiration of the period, or at any other time, has been paid more than the ~~prorata~~ pro rata amount due him as compared with the amounts then paid other creditors, nothing more may be paid that creditor until the payment made other creditors places them on equal footing.

(3) In calculating dividends, all disputed claims and deposits shall be taken into account and the amount of dividends upon the disputed claims or deposits shall be held by the department until the validity of those claims or deposits has been finally determined.

(4) Claims against a bank in process of liquidation may be assigned in whole or in part subject to the approval of the department. Assignments of claims are binding upon the department only after they have been filed and allowed by the department, and ~~only then~~ are subject to the payment of the assignor's liabilities to the bank. An assignment shall be made by filing written notice, signed by the original claimant, with the department or person in charge of the bank. No assigned claims may be offset against obligations due the bank. A check or draft drawn against a bank closed or taken possession of by the department, whether issued before or after closing, ~~shall~~ may not be recognized as a claim against the bank, or as an assignment of any amount, whether protested or not protested."

Section 26. Section 5-1126, R.C.M. 1947, is amended to

read as follows:

"5-1126. Power of closed banks to borrow money from governmental agencies. After applying to and obtaining the approval of the department and the district court of the county in which the bank or trust or investment company is located, and ~~Notwithstanding~~ notwithstanding any other law, the liquidating agents of closed banks may borrow money from an agency of the federal government on behalf of commercial banks, savings banks, trust companies, and investment companies closed and in liquidation, ~~and, as~~ As security for the loan the liquidating agent may pledge or mortgage the assets and properties thereof, for the purpose of paying depositors or creditors in part or in full, ~~after applying to and obtaining the approval of the department and the district court of the county in which the bank, or trust or investment company is located, upon the court proceedings prescribed in section 5-1107.~~"

Section 27. Section 5-1508, R.C.M. 1947, is amended to read as follows:

"5-1508. Transfer of fiduciary relationships between affiliated banks. (1) Any bank which has received approval, pursuant to ~~section 6 [5-1506]~~ to maintain a trust office in the same building with the main office of any affiliated bank may file its verified application in the district court of the county in which its main office is located requesting

that it be substituted, except as may be expressly excluded in such application, in every fiduciary capacity for such affiliated bank, and such affiliated bank shall join in such application. Such application shall indicate the county wherein the main office of such affiliated bank is located and shall designate each fiduciary account existing at the date thereof with respect to which the applicant bank requests substitution, but fiduciary capacities in other cases need not be listed. Such application shall additionally set forth, with regard to each existing fiduciary account designated therein, the name and address last known to the applicant of each person entitled to mailed notice of hearing thereon, who shall be those persons specified in subsections (1)(a) ~~to~~ through (1)(e)~~, inclusive,~~ of ~~section~~ 5-1507.

(2) When any such application ~~shall have~~ has been filed, the clerk of the court where filed shall make an order fixing a date and time for hearing thereon and shall cause notice thereof to be given by publication and mailing in the manner required by ~~section~~ 5-1507.

(3) The notice to be published and mailed with respect to each ~~such~~ application shall state the time and place of the hearing thereon, the name of the bank which has filed the application, the name of the affiliated bank which has joined in such application, that the application requests

that the applicant bank be substituted in every fiduciary capacity for the affiliated bank specified in the application, and that any person beneficially interested in any affected fiduciary account may appear on or before the date of hearing and file his written objection to such substitution as to such affected fiduciary account, and such notice shall refer to such application for further particulars.

(4) On or before the date and time of hearing any such application, any person beneficially interested in any fiduciary account as to which substitution of the applicant bank is requested~~,~~ may appear and file objection to substitution~~,~~ and shall be entitled to be heard with respect to such objection.

(5) On such date of hearing, upon finding that due notice has been given as required by this act and upon finding that the applicant bank has received the requisite approval from the department ~~of business regulation,~~ or the comptroller of the currency if the applicant bank is a national banking association, the district court shall enter an order substituting the applicant bank in every fiduciary capacity for the affiliated bank designated in the application, excepting as may be otherwise specified in the application~~,~~ and excepting fiduciary capacities in any account with respect to which an objection has been filed

pursuant to this section. Upon entry of such order, the applicant bank shall, without further act, be substituted in every such fiduciary capacity. Such substitution may be made a matter of record in any county of this state by filing a certified copy of the order of substitution in the office of the clerk of any district court in this state or by filing a certified copy of such order in the office of the clerk and recorder of any county in this state to be by such officer recorded and indexed in like manner and with like effect as other orders and decrees of court are recorded and indexed.

(6) Each designation, in a will or other instrument heretofore or hereafter executed, of a bank as fiduciary shall be deemed a designation of the applicant bank substituted for such bank pursuant to this section except where such will or other instrument is executed after such substitution and expressly negates the application of this section. Any grant in any such will or other such instrument of any discretionary power shall be deemed conferred upon the applicant bank deemed designated as the fiduciary pursuant to this section.

(7) A bank shall account jointly with the applicant bank which has been substituted as fiduciary for such bank pursuant to this section for the accounting period during which the applicant bank is initially so substituted. Upon

substitution pursuant to this section, the affiliated bank for which substitution has been made shall deliver to such applicant bank all assets held by such affiliated bank as fiduciary (except assets held for accounts with respect of which there has been no substitution pursuant to this section) and upon such substitution all such assets shall become the property of such applicant bank without the necessity of any instrument ~~or~~ of transfer or conveyance."

Section 28. Section 7-102, R.C.M. 1947, is amended to read as follows:

"7-102. Articles of incorporation -- contents. Whenever any number of persons, not less than five ~~(5)~~, ~~shall~~ desire to incorporate a building and loan association, having for its object the conduct and operation of such an association as defined in this act, they shall prepare and file articles of incorporation to that effect in the manner specified in this act, ~~specified; such~~ Such articles shall be signed, sealed, and acknowledged in the form now provided by the statutes of this state for the conveyance of real estate, and shall include the following:

~~1.~~ (1) ~~The~~ the name of the association, ~~The name shall~~ which may not be the same as, ~~nor~~ or too closely resemble, that in use by any existing corporation established under the laws of this state. The words "building and loan association" or "savings and loan association" shall form a

part of the name, and ~~no~~ a corporation not organized under this act ~~shall be entitled to~~ may not use a name embodying ~~said~~ that combination of words~~,~~ provided~~,~~ that the associations ~~now~~ existing as of May 1, 1927, may continue their present names~~.~~

~~2.~~ (2) ~~The~~ the principal office~~,~~ or place of business of the association which shall be within this state;

~~3.~~ (3) ~~The~~ the amount of its capital stock and the number of shares into which the same shall be divided~~.~~ ~~Each~~ The capital stock shall be divided into shares having a par value of ~~one hundred dollars ($100.00)~~~~,~~

~~4.~~ (4) ~~A~~ a provision that such association is organized under this act for the purposes herein expressed;

~~5.~~ (5) ~~The~~ the names and residences of the persons who subscribed and acknowledged the ~~said~~ declaration, a majority of whom shall be citizens of this state~~,~~ and shall thereafter be called incorporators."

Section 29. Section 7-112, R.C.M. 1947, is amended to read as follows:

"7-112. Proxies. At least once every year the board of directors of every building and loan association shall, by resolution, ~~direct~~ cause the secretary of such association ~~and he shall~~ to mail to every stockholder of such association a blank form of proxy, and the stockholder ~~shall have the right and privilege of withdrawing~~ may withdraw his

former proxy and ~~of substituting~~ substitute another in its stead. Every proxy shall continue in force and be binding upon the stockholder until such proxy is revoked or ~~an~~ another substituted."

Section 30. Section 7-139, R.C.M. 1947, is amended to read as follows:

"7-139. Obtaining property by fraud~~,~~ -- false report~~,~~ -- refusal to permit inspection of books. A director, officer, agent, or employee of a building and loan association is guilty of a felony who:

(1) ~~Willfully~~ willfully receives or possesses any of its property, otherwise than in payment for a just demand, and with intent to defraud~~,~~:

(a) omits to make or ~~direct~~ directs to be made a full and true entry of it in its books and accounts;

~~(2)~~ (b) ~~Concurs~~ concurs in omitting to make a material entry thereof;

~~(3)~~ (2) ~~Willfully~~ willfully makes or concurs in making or publishing a written report, exhibit~~,~~ or statement of the association's affairs or pecuniary condition~~,~~ containing any material statement which is false; or

~~(4)~~ (3) ~~Having~~ having the custody or control of the association's books, willfully refuses or neglects to make a proper entry in the books as required by law~~,~~ or to exhibit~~,~~ or allow them to be inspected and extracts to be taken from

them by the department ~~is guilty of a felony~~."

Section 31. Section 7-156, R.C.M. 1947, is amended to read as follows:

"7-156. Conversion ~~of building and loan and other home financing institutions~~ into federal savings and loan associations. Any building and loan association or other home financing organization, by whatever name or style it may be designated, eligible to become a federal savings and loan association may convert itself into a federal savings and loan association by following the procedure hereinafter outlined~~:~~.

~~1.~~ (1) At any regular meeting of the shareholders of any such association or at any special meeting of the shareholders of such association, in either case called to consider such action and held in accordance with the laws governing such association, such shareholders, by an affirmative vote of the majority of ~~said~~ the shareholders, in person or by proxy, may declare by resolution the determination to convert ~~said~~ the association into a federal savings and loan association.

~~2.~~ (2) A copy of the minutes of ~~such~~ the meeting of the shareholders verified by the affidavit of the president or vice-president and the secretary of the meeting shall be filed with the department of business regulation within ~~ten~~ 10 days after ~~said~~ the meeting~~, in the office or department~~

~~of this state having supervision of such association. Such~~ The verified copy of the minutes of such meeting when so filed shall be presumptive evidence of the holding and of the action of such meeting.

~~3.~~ (3) Within a reasonable time and without any unnecessary delay after the adjournment of such meeting of shareholders, such association shall take ~~such~~ any action ~~as may be~~ necessary to make it a federal savings and loan association, and within ~~ten~~ 10 days after receipt of the federal charter there shall be filed ~~in the office or department of this state having supervision of such association~~ with the department of business regulation a copy of ~~said~~ the charter issued to such association by the federal home loan bank board or a certificate showing the organization of such association as a federal savings and loan association certified by, or on behalf of, the federal home loan bank board. Upon the filing of such instrument such association shall cease to be a state association and shall thereafter be a federal savings and loan association."

Section 32. Section 14-605, R.C.M. 1947, is amended to read as follows:

"14-605. Amendments. (1) The articles of incorporation or the bylaws may be amended as provided in the bylaws. Amendments to the articles of incorporation or bylaws shall be submitted to the director of the department of business

regulation who shall approve or disapprove the amendments within ~~sixty (60)~~ days.

(2) Amendments shall become effective upon:

(a) approval in writing by the director, ~~and~~ for which no fee ~~shall~~ may be charged; ~~for such approval.~~ and

(b) filing with the secretary of state."

Section 33. Section 14-665, R.C.M. 1947, is amended to read as follows:

"14-665. Liquidation. (1) A credit union may elect to dissolve voluntarily and liquidate its affairs in the manner prescribed in this section and the applicable Montana corporation laws.

(2) The board of directors shall adopt a resolution recommending the credit union be dissolved voluntarily, and directing that the question of liquidation be submitted to the members.

(3) Within ~~ten (10)~~ days after the board of directors decides to submit the question of liquidation to the members, the president shall notify the director of the department of business regulation thereof in writing, setting forth the reasons for the proposed action. Within ~~ten (10)~~ days after the members act on the question of liquidation, the president shall notify the director in writing as to whether or not the members approved the proposed liquidation.

(4) As soon as the board of directors decides to submit the question of liquidation to the members, payment on shares, withdrawal of shares, making any transfer of shares to loans and interest, making investments of any kind, and granting loans shall be suspended pending action by members on the proposal to liquidate. On approval by the members of such proposal, all such business transactions shall be permanently discontinued. Necessary expenses of operation shall, however, continue to be paid on authorization of the board of directors or liquidating agent during the period of liquidation.

(5) For a credit union to enter voluntary liquidation, approval by a majority of the members in writing or by a two-thirds ~~(2/3)~~ majority of the members present at a regular or special meeting of the members is required. ~~Where~~ If authorization for liquidation is to be obtained at a meeting of the members, notice in writing shall be given to each member, by ~~first-class~~ first-class mail, at least ~~ten (10)~~ days prior to such meeting.

(6) A liquidating credit union shall continue in existence for the purpose of discharging its debts, collecting and distributing its assets, and doing all acts required in order to wind up its business and may sue and be sued for the purpose of enforcing such debts and obligations until its affairs are fully adjusted.

(7) The board of directors ~~of~~ or the liquidating agent shall use the assets of the credit union to pay:

(a) expenses incidental to liquidating, including any surety bond that may be required;

(b) any liability due nonmembers; and

(c) special purpose thrift accounts as provided in this act. Assets then remaining shall be distributed to the members proportionately to the shares held by each member as of the date dissolution was voted.

(8) As soon as the board of directors or the liquidating agent determines that all assets from which there is a reasonable expectancy of realization have been liquidated and distributed as set forth in this section, ~~they~~ he shall execute a certificate of dissolution on a form prescribed by the department ~~of business regulation~~ and file the same with the department, together with all pertinent books and records of the liquidating credit union, ~~with the department of business regulation~~ whereupon such credit union shall be dissolved."

Section 34. Section 15-2603, R.C.M. 1947, is amended to read as follows:

"15-2603. Incorporators — general powers — capital stock — articles of incorporation. Nine ~~(9)~~ or more persons, a majority of whom shall be residents of this state, who ~~may~~ desire to create a development credit

corporation under the provisions of this act, for the purpose of promoting, developing, and advancing the prosperity and economic welfare of the state and, to that end, to exercise the powers and privileges hereinafter provided, may be incorporated in the following manner:

(1) ~~such~~ Such persons shall by articles of incorporation filed in the manner prescribed in Title 15 ~~of the Revised Codes of Montana 1947~~, under their hands and seals, set forth:

~~(1)~~ (a) ~~The~~ the name of the corporation, which shall include the words "Development Credit Corporation of Montana.";

~~(2)~~ (b) ~~The~~ the location of the principal office of the corporation, but such corporation may have offices in such other places within the state as may be fixed by the board of directors.;

~~(3)~~ (c) ~~The purpose~~ the purposes for which the corporation is founded, which shall include the following:

~~(a)~~ (i) ~~To~~ to elect, appoint, and employ officers, agents, and employees;

(ii) to make contracts and incur liabilities for any of the purposes of the corporation; provided, that the corporation ~~shall~~ may not incur any secondary liability by way of guaranty or endorsement of obligations of any person, firm, corporation, joint-stock company, association, or

trust, or in any other manner;

~~(b)~~ (iii) ~~To~~ to borrow money from the members, nonmember persons, firms, or corporations, and state and federal agencies, for any of the purposes of the corporation; to issue therefor its bonds, debentures, notes, or other evidences of indebtedness, whether secured or unsecured, and to secure the same by mortgage, pledge, deed of trust, or other lien on its property, franchises, rights, and privileges of every kind and nature or any part thereof or interest therein, without securing stockholder or member approval; provided, that no loan to the corporation ~~shall~~ may be secured in any manner unless all outstanding loans to the corporation ~~shall be~~ are secured equally and ratably in proportion to the unpaid balance of such loans and in the same manner;

~~(c)~~ (iv) ~~To~~ to make loans to any person, firm, corporation, joint-stock company, association, or trust, and ~~to~~ establish and regulate the terms and conditions with respect to any such loans and the charges for interest and service connected therewith~~.~~; provided, however, that the corporation ~~shall~~ may not approve any application for a loan unless ~~and until~~ the person applying for ~~said~~ the loan ~~shall show~~ shows that he has applied for the loan through ordinary banking channels and that the loan has been refused by at least one bank or other financial institution;

~~(d)~~ (v) ~~To~~ to participate with any duly authorized private lending agency, and city, state, and federal governmental lending agencies in the making of loans;

~~(e)~~ (vi) ~~To~~ to purchase, receive, hold, lease, or otherwise acquire, and to sell, convey, transfer, lease, or otherwise dispose of real and personal property, together with such rights and privileges as may be incidental and appurtenant thereto and the use thereof, including, but not restricted to, any real or personal property acquired by the corporation from time to time in the satisfaction of debts or enforcement of obligations;

~~(f)~~ (vii) ~~To~~ to acquire the good will, business, rights, real and personal property, and other assets, or any part thereof, or interest therein, of any persons, firms, corporations, joint-stock companies, associations, or trusts, and to assume, undertake, or pay the obligations, debts, and liabilities of any such person, firm, corporation, joint-stock company, association, or trust;

(viii) to acquire improved or unimproved real estate for the purpose of constructing industrial plants or other business establishments thereon or for the purpose of disposing of such real estate to others for the construction of industrial plants or other business establishments; ~~and~~

(ix) to acquire, construct, or reconstruct, alter, repair, maintain, operate, sell, convey, transfer, lease, or

otherwise dispose of industrial plants or business establishments;

~~(g)~~ (x) ~~To~~ to acquire, subscribe for, own, hold, sell, assign, transfer, mortgage, pledge, or otherwise dispose of the stock, shares, bonds, debentures, notes, or other securities and evidences of interest in, or indebtedness of, any person, firm, corporation, joint-stock company, association, or trust, and while the owner or holder thereof ~~to~~ exercise all the rights, powers, and privileges of ownership, including the right to vote thereon;

~~(h)~~ (xi) ~~To~~ to mortgage, pledge, or otherwise encumber any property, right, or thing of value, acquired pursuant to the powers contained in ~~paragraphs (e), (f), or (g),~~ subsections (1)(e)(vi) through (1)(e)(x) of this section, as security for the payment of any part of the purchase price thereof;

~~(i)~~ (xii) ~~To co-operate~~ to cooperate with and avail itself of the facilities of the state planning and economic development ~~department~~ divisions of the department of community affairs and any similar governmental agencies, and to ~~co-operate~~ cooperate with, ~~and~~ assist, and otherwise encourage organizations in the various communities of the state in the promotion, assistance, and development of the business prosperity and economic welfare of such communities or of this state or of any part thereof;

~~(j)~~ (xiii) ~~To~~ to accept gifts, donations, bequests, devises, or grants from any person, corporation, association, or governmental agency, whether state, federal, or municipal;

~~(k)~~ (xiv) ~~To~~ to do all acts and things necessary or convenient to carry out the powers expressly granted in this act;

~~(4)~~ (d) ~~The articles of incorporation shall set forth~~ the amount of total authorized capital stock and the number of shares in which it is divided, the par value of each share, ~~and~~ the amount of capital stock with which it will commence business, and, if there is more than one class of stock, a description of the different classes, and the names and post-office addresses of the subscribers of stock and the number of shares subscribed by each. The aggregate of the subscription shall be the amount of capital with which the corporation will commence business.

~~(5)~~ (2) The articles of incorporation may also contain any provision consistent with the laws of this state for the regulation of the affairs of the corporation or creating, defining, limiting, and regulating its powers. The articles of incorporation shall be in accordance with the provisions of Title 15, ~~Revised Codes of Montana 1947,~~ so far as consistent with this act."

Section 35. Section 47-209, R.C.M. 1947, is amended to

read as follows:

"47-209. License renewal fee ~~— failure to pay effect license when in force~~. Every licensee shall, on or before ~~the first day of~~ December 1, pay to the department the sum of ~~one hundred twenty five dollars ($125.00)~~ for each license held as a ~~licensee~~ license fee for the succeeding calendar year. Failure to pay such license fee within the time prescribed shall automatically revoke such license."

Section 36. Section 47-211, R.C.M. 1947, is amended to read as follows:

"47-211. Installment payment — contract period. (1) No licensee ~~shall~~ may enter into any contract of loan:

(a) of ~~three hundred dollars ($300)~~ or less, exclusive of charges, under ~~this act~~ which the borrower agrees to make any scheduled repayment of principal more than ~~twenty one (21)~~ calendar months from the date of making such contract~~;~~ ~~nor any contract of loan~~

(b) for more than ~~three hundred dollars ($300)~~ to and including ~~one thousand dollars ($1,000)~~, exclusive of charges, under which the borrower agrees to make any scheduled repayment of principal more than ~~twenty five (25)~~ calendar months from the date of making~~;~~ ~~nor any contract of loan~~

(c) for more than ~~one thousand dollars ($1,000)~~ to and

including ~~two thousand dollars ($2,000)~~, exclusive of charges, under which the borrower agrees to make any scheduled repayment of principal more than ~~thirty seven (37)~~ calendar months from the date of making~~;~~ ~~nor any contract of loan~~ or

(d) for more than ~~two thousand dollars ($2,000)~~, to and including ~~two thousand five hundred dollars ($2,500)~~, exclusive of charges, under which the borrower agrees to make any scheduled repayment of principal more than ~~thirty seven (37)~~ calendar months from the date of making.

(2) Every loan contract shall require payment of principal and charges in installments which shall be payable at approximately equal periodic intervals, except that payment dates may be omitted to accommodate borrowers with seasonal incomes. No installment contracted for ~~shall~~ may be substantially larger than any preceding installment. When a loan contract provides for monthly installments, the first installment may be payable at any time within ~~forty five (45)~~ days of the date of the loan and the charges for the number of days in excess of ~~thirty (30)~~ from the date of making may be added to the scheduled amount of ~~said~~ the installments."

Section 37. Section 47-220, R.C.M. 1947, is amended to read as follows:

"47-220. Wage assignments — limitations. (1) The

payment in money, credit, goods, or things in action, as consideration for any sale or assignment of, or order for the payment of wages, salary, commission, or other compensation for services, whether earned or to be earned, shall, for the purpose of regulation under this act, be ~~deemed~~ considered a loan secured by such assignment, and the amount by which the assigned compensation exceeds the amount of the consideration actually paid, shall, for the purposes of regulation under this act, be ~~deemed~~ considered interest or charges upon the loan from the date of payment to the date the compensation is payable. Such transactions shall be governed by and be subject to the provisions of this act.

(2) Any assignment or other transfer to a licensee or for the benefit of a licensee, of salary, wages, commissions, or other compensation for services, must be limited to not exceeding ~~ten per cent (10%)~~ of such salary, wages, commissions, or other compensation owing at the time of the notice to the debtor's employer, ~~hereinafter provided,~~ and thereafter to become owing. ~~Provided, however,~~ However, no such assignment or order ~~shall be~~ is valid unless it is in writing, signed in person by the borrower, or if the borrower is married, unless it is signed in person by both husband and wife, provided that written assent of a spouse ~~shall not be~~ is not required when husband and wife have been and are living separate and apart when such

assignment or order is made. ~~Such notice shall be given only~~ ~~if~~ If the debtor defaults in payment of the whole or some part of the loan for which such assignment or transfer is security, notice shall be given to the debtor's employer of such assignment or transfer. Such notice must be served on the employer or a managing agent of such employer, must be verified by the oath of the licensee or his agent, and must include:

(a) ~~A~~ a correct copy of the assignment;

(b) ~~A~~ a statement of the amount of such loan and the amount due and unpaid thereon;

(c) ~~A~~ a copy of this section.

(3) The acceptance and honoring of any assignment shall be at the option of the employer."

Section 38. Section 47-226, R.C.M. 1947, is amended to read as follows:

"47-226. Access to records -- witnesses. For the purpose of this ~~section~~ chapter the department or its duly authorized representatives shall ~~have and~~ be given free access to the offices and places of business, files, safes, and vaults, of all such persons, and ~~shall have authority to~~ may require the attendance of any person and ~~to~~ examine him under oath relative to such loans or such business or to the subject matter of any examination, investigation, or hearing and ~~shall have authority to~~ may require the production of

books, accounts, papers, and records. In the event of disobedience to any subpoena or other process issued by the department or failure to produce any books, accounts, papers, and records, the department may invoke the aid of any district court of this state in requiring the evidence and testimony of witnesses and the production of books, accounts, papers, and records.

Section 39. Repealer. Section 5-1125, R.C.M. 1947, is repealed.

-End-

45th LEGISLATIVE SESSION

COMMITTEE ON Business and Industry

SENATE BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO ~~NOT~~ PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
SB 4	1/3/77	1/8/77	1/8/77	1/8/77					
SB 4	1/13/77	RECONSIDERED 1/18-1/25	1/25/77			1/25/77			
SB 5	1/3/77	1/8/77	1/8/77	1/8/77					
SB 6	1/3/77	1/8/77	1/8/77			1/8/77			
SB 36	1/4/77	1/18-2/1	2/1/77			2/1/77			
SB 39	1/5/77								
SB 54	1/7/77	1/13/77	1/13/77			1/13/77			
SB 69	1/10/77	1/20-1/25	1/25/77	1/25/77					
SB 73	1/11/77	1/18-1/25	1/25/77			1/25/77			
SB 84	1/12/77	2/5/77	2/5/77			2/5/77			
SB 85	1/12/77	2/3-2/16	2/16/77			2/16/77			
SB 91	1/13/77	1/27/77	1/27/77	1/27/77					
SB 111	1/17/77	1/27/77	1/27/77			1/27/77			
SB 126	1/18/77								
SB 146	1/19/77								
SB 170	1/20/77	2/1-2/10	2/10/77			2/10/77			

(Use Separate Sheet for Senate, House Bills, and Resolutions)

Senate Bill 6, "An Act to Generally Revise and Clarify the Laws Relating to Banks, Building and Loan Associations, Credit Unions, Development Credit Corporations, and Consumer Loan Businesses." Mr. Cogley stated that there are four types of banks: Commercial banks; savings banks; trust companies; and investment companies. These come under the banking codes. Senator Lowe suggested they should change page 1, section 1, line 17, and insert the following after the word business "as defined in this title." Senator Goodover moved that this be done. All were in favor.

Mr. Cogley stated that on page 9, section 6, line 19, there was an error in the bill and he wanted to change the word "check" to "checks." Senator Regan moved that this be done. All were in favor.

Mr. Cogley stated that on page 35, section 32, line 6, following (b) the following should be inserted "in the case of articles of incorporation." Senator Lowe moved that this be done. All were in favor.

On page 46, section 37, line 2, the following was suggested. After the stricken "if" insert "only if" and on line 4, change "notice shall" to "shall notice." Senator Lowe moved that this be done. All were in favor.

Senator Devine moved that Senate Bill 6, As Amended, Do Pass. All were in favor.

ADJOURN: There being no further business, Chairman Hazelbaker adjourned the meeting at 11:55 a.m.

FRANK W. HAZELBAKER, Chairman

ecretary)

STANDING COMMITTEE REPORT

January 8 19 77

MR. President

We, your committee on Business and Industry

having had under consideration SENATE Bill No. 6

Respectfully report as follows: That SENATE Bill No. 6,

introduced bill, be amended as follows:

1. Amend page 1, section 1, line 17.
Following: "defined."
Insert: ", as defined in this title"

2. Amend page 9, section 6, line 19.
Following: "on"
Strike: "check"
Insert: "checks"

3. Amend page 35, section 32, line 6.
Following: "(b)"
Insert: "in the case of articles of incorporation,"

Chairman.

STATE PUB. CO.
Helena, Mont.

4. Amend page 46, section 37, line 2.
Following: "~~if~~"
Strike: "If"
Insert: "only if"

5. Amend page 46, section 37, line 4.
Following: "security,"
Strike: "notice shall"
Insert: "shall notice"

AND AS SO AMENDED, DO PASS

FRANK W. HAZELBAKER, Chairman

BUSINESS & INDUSTRY COMMITTEE

45th Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
HB 163	To transfer the jurisdiction over transportation of milk to the Board of Milk Control from the Department of Business Regulations.	1/13/77	Jensen	1/19/77	AS SO AMENDED DO PASS	1/27/77
HB 171	To allow insurance agents, life insurance agents, or solicitors licensed as insurance consultants a fee for consultation services	1/14/77	Porter	1/19/77	AS SO AMENDED DO PASS	2/01/77
HJR 12	To repeal the State Electrical Board rule relating to registration of apprentices	1/15/77	Barrett	1/24/77	DO PASS	2/01/77
SB 5	To revise and clarify laws relating to credit transactions and relationships	1/15/77	Hazelbaker	1/31/77 canceled 3/04/77	CONCURRED IN	3/04/77
SB 6	To revise and clarify laws relating to banks, building and loan associations, credit unions, development credit corporations, and consumer loan businesses	1/15/77	Hazelbaker	1/31/77 canceled 3/04/77	CONCURRED IN	3/04/77
HB 196	To abolish the inspection and permitting system for enforcement of the State Plumbing Code	1/17/77	Fagg	1/24/77	AS SO AMENDED DO PASS	2/10/77

HOUSE BUSINESS AND INDUSTRY COMMITTEE

March 4, 1977

The meeting was called to order at 10:15 a.m., in Room 434, with all members present with the exception of Reps. Scully and Bradley.

Senate Bill No. 4, 5, and 6 were discussed. Sen. Hazelbaker, sponsor, gave the reason for the recodification of these bills. He then introduced Mr. Dave Cogley. Mr. Cogley said it would be easier if he could just answer any questions relative to the bills rather than going through each one.

Sen. Hazelbaker stated in closing that all interested parties are in concurrence with the bills.

There were no proponents, opponents or questions from the committee.

Senate Bill No. 84 was discussed. Sen. Lowe, sponsor, stated that the bill dealt with petroleum and is a complete redraft of Chapter 2. The bill clearly defines liquified petroleum dealer.

Mr. Delano stated that he would answer any questions relative to the bill (testimony attached).

Rep. Aageson asked Mr. Delano why the correction of fuel sales is at 60° Fahrenheit. Mr. Delano replied by stating that the average temperature in Montana is 43°.

Senate Bill No. 218 was discussed. Sen. Lowe, sponsor, said the bill had come from the Insurance Commissioners office. The insurance consultants should come under a certain designation or they should be required to pass an examination. Also, they could be certified as a public insurance consultant. The examination given by Drake University would cost $100 per question. There are approximately 20 questions which include 10 for health and life--10 for property and casualty. The number of applicants vary from 8 to 10 per year. The fee for taking second or subsequent examinations shall not exceed $50.

Mr. Chip Urdman expressed his support in the bill.

There were no opponents.

Sen. Lowe stated that the applicants would take the test in the office and the results would be sent to Drake University for correction.

The committee then went into executive session.

Rep. Aageson moved that Senate Bill No. 4 BE CONCURRED IN. It was concurred in by a unanimous vote.

Rep. Metcalf moved that Senate Bill No. 5 BE CONCURRED. The motion was carried unanimously.

SENATE BILL NO. 6

INTRODUCED BY HAZELBAKER

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO BANKS, BUILDING AND LOAN ASSOCIATIONS, CREDIT UNIONS, DEVELOPMENT CREDIT CORPORATIONS, AND CONSUMER LOAN BUSINESSES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 5-102, R.C.M. 1947, is amended to read as follows:

"5-102. Institutions to which act is applicable. (1) The word "~~Bank~~" "bank" as used in this ~~act~~ title, ~~shall be construed to mean~~ means any corporation which ~~shall have~~ has been incorporated to conduct the business of receiving money on deposit, or transacting a trust or investment business ~~as hereinafter defined~~, AS DEFINED IN THIS TITLE.

(2) The soliciting, receiving, or accepting of money or its equivalent on deposit as a regular business, ~~shall be deemed to be~~ is doing a commercial or savings bank business, whether such deposit is made subject to check or is evidenced by a certificate of deposit, a passbook, a note, or other receipt; ~~provided~~, that nothing herein ~~shall apply~~ applies to or ~~include~~ includes money or its equivalent left in escrow, or left with an agent pending investment in real estate or securities for or on account of his principal.

(3) It ~~shall be~~ is unlawful for any corporation, partnership, firm, or individual to engage in or transact a banking business within this state, except by means of a corporation duly organized for such purpose.

(4) Banks are divided into the following classes:

(a) ~~Commercial Banks~~, commercial banks;

(b) ~~Savings Banks~~, savings banks;

(c) ~~Trust Companies~~, trust companies;

(d) ~~Investment Companies~~, investment companies.

~~provided, further, however, that this act shall not apply to any person, firm or association now doing a private banking business; provided, however, that said private banks hereinabove referred to shall come under all of the provisions of this act which may be fairly applicable thereto; provided further, however, that this act shall not~~

(5) This title does not apply to any investment company or corporation, ~~heretofore~~ established prior to March 8, 1927, under authority of the law of Montana, not accepting, receiving, and or holding money on deposit."

Section 2. Section 5-202.1, R.C.M. 1947, is amended to read as follows:

"5-202.1. Board to refuse or approve application. The board may refuse or approve an application for a certificate of authorization in accordance with ~~sections 5-607~~ 5-610

through 5-614."

Section 3. Section 5-403, R.C.M. 1947, is amended to read as follows:

"5-403. Scope of term "liquidating officer" -- department of business regulation to file inventory with district court -- report. (1) For the purpose of this section the term "liquidating officer" includes every person legally empowered to liquidate the business and affairs of a state bank, whether the liquidation is by the department of business regulation or its deputies and agents. The term also includes all receivers of state banks qualified to liquidate a state bank under any law of this state.

(2) The liquidating officer of a bank may decide when the assets of a failed bank are not sufficient to pay the debts, contracts, engagements, and liabilities, and he may determine the question of the time when and the court where necessary legal proceedings shall be conducted, subject to the general provisions of law governing venue and place of trial. ~~For the purposes of this section the term "liquidating officer" includes every person legally empowered to liquidate the business and affairs of a state bank whether the liquidation is by the department of business regulation, its deputies and agents and also includes all receivers of state banks qualified to liquidate a state bank under any law of this state.~~

(3) The provisions of this chapter do not impose any liability on a stockholder of a bank which is a member of the ~~Federal Deposit Insurance Corporation~~ federal deposit insurance corporation.

(4) The department shall, within ~~ninety (90)~~ days after taking charge of an insolvent bank, file with the district court having jurisdiction a complete inventory of all of the property and assets of the insolvent bank, such as furniture, fixtures, real estate, mortgages, bonds, and notes, secured and unsecured. It shall also every ~~six (6)~~ months, or more often, if required by the court, file with the court a report showing the ~~conditions~~ status of the liquidation of the bank, the assets that have been liquidated and collected, the amounts and manner of payments made to creditors, the manner in which claims have been handled, and the assets on hand. The report shall contain other information the court requires, so that the court and the public may be apprised of the condition of the bank and the manner in which it is being liquidated with respect to the collection and sale of assets belonging to the bank and the manner in which claims are being paid. The report and account shall be set for hearing upon the notice the court may require and, if found to be correct, shall be approved by the court."

Section 4. Section 5-504, R.C.M. 1947, is amended to

read as follows:

"5-504. Real estate which banks may purchase, hold, or convey. (1) A bank organized under the provisions of this act may purchase, hold, or convey real estate which:

(a) ~~It~~ is necessary for the proper transaction of its business, but it shall not invest an amount exceeding ~~fifty per cent (50%)~~ of its paid-up capital and surplus in the lot and building in which the business of the company is carried on, furniture, equipment and fixtures, vaults and safety vaults, and boxes necessary or proper to carry on its banking business;

(b) ~~It~~ is mortgaged to it in good faith by way of security for loans previously made or moneys due to the ~~corporations~~ bank;

(c) ~~It~~ is conveyed to it in satisfaction of debts previously contracted in the course of its business;

(d) ~~It~~ it purchases at sales under judgments, decrees, or mortgages held by the ~~company~~ bank.

(2) Real estate acquired in the manner set forth in subsections (1)(c) and (1)(d) of this section may not be held longer than ~~five (5)~~ years from the date of acquisition, unless special written permission to do so is granted by the department ~~of business regulation~~. The real estate shall be carried on the books of the bank for an amount not greater than its cost to the bank, including

costs of foreclosure and other expenses of acquiring title."

Section 5. Section 5-506, R.C.M. 1947, is amended to read as follows:

"5-506. Limitation on real estate loans. (1) A ~~commercial~~ bank organized under the laws of this state may make real estate loans, secured by first liens upon improved real estate, including improved farm land and improved business and residential properties, and may purchase an obligation so secured when the entire amount of the obligation is sold to the bank. The amount of the loan may not exceed ~~fifty percent (50%)~~ of the appraised value of the real estate offered as security, and the loan may not be made for a longer period than ~~five (5)~~ years, except that:

(a) ~~The~~ the loan may be made in an amount not to exceed ~~sixty percent (60%)~~ of the appraised value of the real estate offered as security and for a term not longer than ~~twenty (20)~~ years if the loan is secured by an amortized mortgage, deed of trust, or similar instrument, under the terms of which the installment payments are sufficient to amortize ~~forty percent (40%)~~ or more of the principal of the loan within not more than ~~twenty (20)~~ years; and

(b) ~~A commercial~~ a bank may not make those loans in an aggregate sum in excess of the amount of its capital stock paid in and unimpaired plus the amount of its unimpaired

surplus or in excess of ~~sixty percent (60%)~~ of the amount of its time and saving deposits, whichever is greater.

(2) Loans made to finance the construction of residential or farm buildings and having maturities of not to exceed ~~six (6)~~ months, whether or not secured by a mortgage or a similar lien on real estate upon which the residential or farm building is being constructed, are not loans secured by real estate within the meaning of this section, but shall be classed as ordinary commercial loans. A ~~commercial~~ bank may not invest in or be liable on any of those loans in an aggregate amount in excess of ~~fifty percent (50%)~~ of its actually paid-in and unimpaired capital.

(3) Loans made to establish rural or commercial businesses, which are in whole or in part discounted or loaned against as security by a federal reserve bank for any part of which a commitment has been made by a federal reserve bank or in which an agency of the federal government ~~co-operated~~ cooperated or ~~purchases~~ purchased a participation in, are not subject to the restrictions or limitations of this section upon loans secured by real estate. A ~~commercial~~ bank in this state has from time to time the same authority to make loans upon real estate which may be given by acts of ~~Congress~~ congress or the federal reserve system to national banks or bank members of the

federal reserve system.

(4) The limitations and restrictions imposed by this section do not prevent the renewal or extension of loans made before February 18, 1941, and do not apply to real estate loans which are insured under the provisions of any act of ~~Congress~~ congress. Those limitations and restrictions do not apply to the making, extension, or renewal of any loans made under subchapter II of the act of ~~Congress~~ congress known as the Servicemen's Readjustment Act of 1944, or any amendment or supplement to that act.

(5) This section, however, does not prevent a bank from taking another and immediately subsequent mortgage or deed of trust when it already holds a first mortgage or deed of trust on the real estate, or from accepting a second lien on real estate to secure the repayment of a debt previously contracted in good faith. These provisions do not prevent subsequent liens of any kind from being taken to secure the payment of a debt previously contracted in good faith, when, in the judgment of the directors of the bank, the subsequent liens are necessary further to secure the payment of any debts and save the bank from loss. ~~"Commercial bank" as used in this section means a bank organized to do only the business specified in sections 5-104 to 5-107.~~"

Section 6. Section 5-508, R.C.M. 1947, is amended to read as follows:

"5-508. ~~Business prohibited unless under department---use of certain words prohibited-----court--may--enjoin~~ When advertising as bank prohibited -- trade names restricted. (1) A person, firm, company, ~~copartnership~~ partnership, or corporation, either domestic or foreign, not subject to the supervision of the department, and not required by the provisions of this act to report to it, and which has not received a certificate to do a banking business from the department, may not:

(a) advertise that he or it is receiving or accepting money or savings for deposit, investment, or otherwise, and issuing notices or certificates of deposit therefor;; or

(b) use an office sign, at the place where the business is transacted, having on it an artificial or corporate name, or other words indicating that:

(i) the place or office is the place or office of a bank or trust company,;

~~or that~~ (ii) deposits are received there or payments made on ~~check~~ CHECKS;; or

(iii) any other form of banking business is transacted there.

(2) That person, ~~or---persons~~, firm, company, ~~copartnership~~ partnership, or corporation, domestic or foreign, may not use or circulate letterheads, ~~bill--heads~~ billheads, blank notes, blank receipts, certificates, or

circulars, or any written or printed or partly written and partly printed paper, whatever, having on them an artificial or corporate name or other word or words indicating that the business is the business of a bank, savings bank, or trust or investment company.

(3) That person, firm, company, ~~copartnership~~ partnership, or corporation, or any agent of a foreign corporation, not having an established place of business in the state, may not solicit or receive deposits or transact business in the way or manner of a bank, savings bank, trust, or investment company, or in a manner which leads the public to believe that its business is that of a bank, savings bank, trust, or investment company.

(4) A person, firm, company, ~~copartnership~~ partnership, or corporation, domestic or foreign, not subject to the supervision of the department, and not required by the provisions of this act to report to it, and which has not received from the department a certificate to do a banking business, may not transact business under a name or title which contains the word "bank,", "banker,", "banking,", "savings bank,", "saving,", "trust,", "trustee,", "trust company,", or "investment company,".

(5) A person, firm, company, ~~copartnership~~ partnership, or corporation, domestic or foreign, violating a provision of this section shall forfeit to the state ~~one~~

~~hundred dollars ($100)~~ a day for every day or part of a day during which the violation continues.

(6) Upon suit by the department, the court may issue an injunction restraining that person, firm, company, ~~copartnership~~ partnership, or corporation during pendency of the action and permanently from further using those words in violation of the provisions of this section, or from further transacting business in a manner which leads the public to believe that its business is that of a bank, savings bank, trust, or investment company, ~~during the pendency of the action and permanently,~~ and may enter any other order or decree as equity and justice require."

Section 7. Section 5-517, R.C.M. 1947, is amended to read as follows:

"5-517. Limit on amount of bond issue. No commercial bank ~~shall~~ may purchase, agree to purchase, or underwrite any bond issue in excess of ~~ten per centum~~ 10% of its assets, except bonds of the United States, of the state of Montana, or of the cities, towns, counties, or school districts of this state."

Section 8. Section 5-519, R.C.M. 1947, is amended to read as follows:

"5-519. ~~Obtaining property by fraud -- false report -- refusal to permit inspection of books~~ Fraud by director, officer, or employee. A director, officer, agent, or

employee of a bank is guilty of a felony who:

(1) ~~Knowingly~~ knowingly receives or possesses himself of any of its property, otherwise than in payment for a just demand, and with intent to defraud;

(a) omits to make or to cause or direct to be made a full and true entry of it in its books and account; or,

~~(2)~~(b) ~~Concurs~~ concurs in omitting to make any material entry thereof; ~~or~~,

~~(3)~~(2) ~~Knowingly~~ knowingly concurs in making or publishing any written report, exhibit, or statement of its affairs or pecuniary condition, containing any material statement which is false; or,

~~(4)~~(3) ~~Having~~ having the custody or control of its books, willfully refuses or neglects to make a proper entry in the books of that corporation as required by law, or to exhibit them, or allow them to be inspected and extracts to be taken from them by the department, ~~is guilty of a felony.~~"

Section 9. Section 5-530, R.C.M. 1947, is amended to read as follows:

"5-530. Deposit by minor. Whenever any deposit shall be made in any bank, ~~and~~ by and or in the name of any minor, the same shall be held for the exclusive right and benefit of such minor, and free from the control or lien of all persons whatsoever, except creditors, and shall be paid,

with any interest due thereon, to the person in whose name the deposit ~~shall have been~~ was made, and the receipt of such minor ~~shall be~~ is a sufficient release or discharge for such deposit to the bank."

Section 10. Section 5-604, R.C.M. 1947, is amended to read as follows:

"5-604. Director ~~of business regulation~~ and employees not to be interested in banks. Neither the director of the department of business regulation nor any bank examiner may be interested in or a borrower from any state bank, directly or indirectly."

Section 11. Section 5-609, R.C.M. 1947, is amended to read as follows:

"5-609. ~~Secretary~~ State banking board -- secretary ~~of board~~ -- meetings ~~of board~~ -- per diem quorum ~~remuneration~~. (1) The ~~board~~ state banking board, established by 82A-407, shall elect from its members a secretary to serve at the pleasure of the board.

(2) In performing its functions the board shall have use of the offices, equipment, and personnel of the department ~~of business regulation~~ as it requires.

(3) The board shall hold regular meetings each quarter at a fixed date and time at the office of the department ~~of business regulation~~. Special meetings may be called at any time by the chairman upon ~~three (3) days~~ days' notice to the

members.

(4) A quorum for all meetings shall be a majority of the board members, and action may be taken by a majority of the quorum present at any meeting.

(5) The chairman shall have a voice but no vote in all meetings except to break a tie.

(6) Any board member except the chairman may be removed by the governor without cause in any case.

(7) The board members, except the chairman, shall be paid ~~twenty-five dollars ($25)~~ per day or any part thereof devoted to the performance of their duties, and actual and reasonable expenses incurred in the performance of their duties and mileage as provided by law to state officers. The costs and expenses of the board shall be legitimate charges of the department ~~of business regulation~~."

Section 12. Section 5-610, R.C.M. 1947, is amended to read as follows:

"5-610. Powers and duties of board. The state banking board shall:

(1) make final determinations upon applications for certificates of authorization for new banks, mergers, consolidations, and relocations of banks;

(2) act in an advisory capacity with respect to the duties and powers given by statute or otherwise to the director of the department of business regulation as ~~said~~

the duties and powers relate to banking."

Section 13. Section 5-611, R.C.M. 1947, is amended to read as follows:

"5-611. Rules adopted by board -- new banks. The board shall adopt rules necessary for the administration of ~~this act~~ 5-609 through 5-614 in accordance with the Montana Administrative Procedure Act ~~[82-4201--to--82-4225]~~. In particular, the board shall adopt rules concerning the authorization of new banks. Such rules shall contain minimum standards under which an application for a new bank shall be determined, including the following:

(1) a persuasive showing that there is a reasonable public necessity and demand for a new bank at the proposed location;

(2) that the bank will be owned and managed by persons of good moral character and financial integrity, and will be safely and soundly operated;

(3) a persuasive showing that the new bank will have a sufficient volume of business to assure solvency and that establishment of the new bank will be in the public interest."

Section 14. Section 5-702, R.C.M. 1947, is amended to read as follows:

"5-702. Report of declaration of dividend. In addition to the ~~statement~~ report required by ~~section~~ 5-701, a bank

shall report to the department within ~~ten--(10)~~ days after declaring any dividend, showing the amount of the dividend and the amount of net earnings in excess of the dividend. The ~~statement~~ report shall be attested as provided ~~for~~ in ~~the attestation of statement by section~~ 5-701."

Section 15. Section 5-707, R.C.M. 1947, is amended to read as follows:

"5-707. False statements and entries ~~deemed~~ considered felony. Every officer or other person authorized by this act, who willfully and knowingly makes any false statement of facts, statement of account, or report, and every officer, agent, or clerk of any bank who willfully and knowingly makes any false entries in the books of such bank, or knowingly subscribes or exhibits false papers, with the intent to deceive any person authorized to examine such bank, and every person authorized by the provisions of this act to make statements or reports, who willfully and knowingly subscribes or makes any false statement or report, ~~shall--be--deemed~~ is guilty of a felony, and, upon conviction thereof, shall be imprisoned ~~at--hard--labor~~ in the state prison for a term of not less than ~~one--(1)--nor~~ or more than ~~ten--(10)~~ years."

Section 16. Section 5-802, R.C.M. 1947, is amended to read as follows:

"5-802. Penalty for receiving deposits when insolvent,

or for making false statements. Any officer, agent, or clerk of any bank, knowing such bank to be insolvent, who receives money, bank bills, notes of the United States, or currency, or other bills or drafts circulating as money or currency, except in the manner set forth in the succeeding section, ~~or who~~ subscribes or makes any false statements or entries in the books of such bank, ~~or~~ knowingly subscribes or exhibits any false paper with the intent to deceive any person authorized to examine as to the condition of such bank, or willfully subscribes or makes false reports, ~~shall~~ be is subject to imprisonment ~~at hard labor~~ in the state prison for a term not exceeding ~~five (5)~~ years."

Section 17. Section 5-1002, R.C.M. 1947, is amended to read as follows:

"5-1002. Change from state to national bank. Any bank may become a corporation for the purpose of carrying on the business of banking in this state, under the act of ~~Congress~~ congress "to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof," approved June 3, 1864, and ~~of~~ under Title 52 of the Revised Statutes of the United States, when stockholders owning two-thirds ~~(2/3)~~ of the stock of the bank have voted to become such corporation, or have executed a written consent authorizing its directors to make the certificate required therefor by the laws of the United

States, or when a majority of the directors of the bank, having been authorized in their discretion to make the change, shall, by a vote of the majority, decide to become such corporation. The cashier of the bank shall publish notice thereof for ~~thirty (30)~~ days in the newspaper which the directors select, and send a like printed notice by mail or otherwise to all nonvoting or dissenting stockholders, and notify the department of business regulation that the bank has decided to become a corporation under the laws of the United States."

Section 18. Section 5-1019, R.C.M. 1947, is amended to read as follows:

"5-1019. Special examination defined. ~~An~~ A special examination is an examination made by the department otherwise than in the ordinary routine of the department, ~~and~~ because, in its opinion, the condition of the bank requires the examination, ~~and~~ or an examination made at the request of the board of directors or stockholders of a bank, ~~is a special examination.~~"

Section 19. Section 5-1021, R.C.M. 1947, is amended to read as follows:

"5-1021. Consolidation or merger of banks. (1) The words "bank" or "banks" as used in this section include commercial banks, savings banks, trust companies, investment companies, and other such corporations carrying on the

business of banking, trust company, or investment company under the laws of this state or doing business in this state under the national banking laws of the United States.

(2) Any two or more banks doing business in this state, may, with the approval of the state banking board, in the case of state banks, consolidate ~~, join and~~ or merge into one bank ~~under, into and with the charter of either existing bank hereinafter referred to as the consolidated bank~~, on such terms and conditions as may be lawfully agreed upon by a majority of the board of directors of each bank proposing to consolidate, ~~and be ratified and confirmed~~ or merge. Such consolidation or merger, before it becomes effective, must be ratified by the consent in writing of the shareholders of each such bank owning at least two-thirds of its capital stock outstanding, provided that the capital stock of such consolidated or merged bank ~~shall~~ may not be less than that required under existing law for the organization of a bank of the class of the largest of the banks so consolidating.

(3) Upon such consolidation or merger, the corporate franchise, corporate life, being, and existence, and the corporate rights, powers, duties, privileges, franchises, and obligations, including the rights, powers, duties, privileges, and obligations as trustee, executor, administrator, guardian, and all and every right, power,

duty, privilege, and obligation as fiduciary, together with title to every species of property, real, personal, and mixed, of such consolidating or merging bank and banks shall, without the necessity of any instrument of transfer, ~~be and~~ become consolidated or merged and continued in and held, enjoyed, and ~~/or~~ assumed by the consolidated or merged bank, and such ~~consolidated~~ bank shall have and enjoy the right equal as to priorities with any other applicant to appointment by the courts to the offices of executor, administrator, guardian, ~~and/~~or trustee under any will or other instrument made prior to such consolidation or merger and by which will or instrument such consolidating or merging bank was nominated by the maker to such office.

~~The word "bank" or "banks" as used in this section shall be held to include commercial banks, savings banks, trust companies, investment companies and other such corporations carrying on the business of banking, trust company or investment company under the laws of this state or doing business in this state under the national banking laws of the United States."~~

Section 20. Section 5-1027, R.C.M. 1947, is amended to read as follows:

"5-1027. Department may make rules. The department ~~shall have the authority to make and~~ may promulgate reasonable rules and orders ~~in the matter of~~ concerning

bookkeeping and accounting by state banks, including the keeping of reasonable credit information, ~~or~~ information in connection with assets; ~~and for~~ or information in connection with ~~charged-off~~ charged-off items."

Section 21. Section 5-1032, R.C.M. 1947, is amended to read as follows:

"5-1032. Bonding of employees. (1) ~~It shall be the duty of the~~ The board of directors of every bank ~~to~~ shall require that all officers and employees of banks whose duty includes the handling of moneys, notes, bonds, credits, and cash items, and whose duties include bookkeeping ~~and/~~or the making of entries in relation to the business of the bank and its customers, be bonded.

(2) The board of directors shall by order ~~duly~~ entered upon the ~~minutes~~ minute books of the board designate the officers and employees to be bonded and the amount of bonds to be given. Such action as to the personnel, ~~and~~ the amount of bonds, and the surety company or sureties ~~to be~~ is subject to approval by the department, and the bonds ~~to~~ shall be in such form as ~~shall be~~ is provided or approved by the department.

(3) ~~the~~ The bonds ~~to~~ shall be approved by the president of the bank and his action reported to the board of directors.

(4) ~~all~~ All bonds required by this section ~~to~~ shall be

kept in the custody of the bank subject to inspection by examiners from the department; provided, as far as possible, they ~~shall~~ may not be placed in the custody of the officer or employee for whom the same is given."

Section 22. Section 5-1039, R.C.M. 1947, is amended to read as follows:

"5-1039. Giving security for deposit prohibited -- exceptions. It ~~shall be~~ is unlawful for any bank to pledge, mortgage, or hypothecate to any depositor any of its real or personal property as security for any deposit, and any pledge, mortgage, or hypothecation made in violation thereof ~~shall be~~ is unenforceable, ~~provided, however, that this~~ This provision ~~shall~~ does not apply to any deposits of money of the United States, ~~and~~ public funds deposited in accordance with the provisions of any depository act of this state, or the United States, or bankruptcy estate funds or deposits, ~~also~~ including deposits of receivers or trustees in bankruptcy, deposited under the direction and supervision of a court of record of the state of Montana or of the United States."

Section 23. Section 5-1055, R.C.M. 1947, is amended to read as follows:

"5-1055. Closing on Saturdays authorized -- Saturday treated as holiday. Any bank, ~~which term for the purposes of this act shall mean any corporation~~ as defined in ~~section~~

~~5-102, including commercial banks and trust companies, as more particularly defined in sections 5-104, 5-105 and 5-106,~~ and any national bank or national banking association incorporated or organized under the laws of the United States of America and any federal reserve bank may, at its election, remain closed and refrain from the transaction of any business on Saturdays, ~~and any~~ Any Saturday on which any such bank remains closed shall be, with respect to such bank, a holiday and not a business day. Any act, authorized, required, or permitted to be performed on a Saturday at or by, or with respect to any bank ~~as herein defined~~, including any national bank or national banking association, and any federal reserve bank, ~~on a Saturday,~~ may be performed on the next succeeding business day, and no liability or loss of any rights of any kind shall result from such closing on Saturday, or from the nonopening of any bank for the transaction of business on any Saturday under the authority of this act, ~~for the transaction of business.~~"

Section 24. Section 5-1106, R.C.M. 1947, is amended to read as follows:

"5-1106. Resumption after closing. After the department has taken possession of a bank, it may permit that bank to resume business upon conditions which may be approved by ~~it~~ the department."

Section 25. Section 5-1115, R.C.M. 1947, is amended to

read as follows:

"5-1115. Claims -- partial payments. (1) The department need not await the expiration of the time allowed for filing claims, as fixed in the notice to the creditors, for the payment of dividends. It may, in its discretion, and if under the circumstances of the particular case it considers it expedient and safe, at any time after taking possession of the bank and prior to the expiration of the period fixed for filing of claims, if it has on hand in cash sufficient funds over and above the expenses of liquidation, make pro rata distribution to any class of creditors next entitled to distribution, in the order of priority fixed in this chapter, making that payment to the creditors as they appear on the books and records of the bank and determining the priority and basing ~~his~~ its apportionment on the amount shown to be due by the books and records.

(2) At any time after the expiration of the date fixed for the presentation of claims against the bank and from time to time thereafter, when, in its discretion, there are sufficient funds available, the department shall, after making proper provisions for the payment of expenses of liquidation, declare and pay dividends to all creditors of the bank pro rata in the order of their priority. If, after the time fixed for presentation of claims against the bank has expired, it appears that a person, prior to the

expiration of the period, or at any other time, has been paid more than the ~~prorate~~ pro rata amount due him as compared with the amounts then paid other creditors, nothing more may be paid that creditor until the payment made other creditors places them on equal footing.

~~(3)~~ In calculating dividends, all disputed claims and deposits shall be taken into account and the amount of dividends upon the disputed claims or deposits shall be held by the department until the validity of those claims or deposits has been finally determined.

~~(4)~~ Claims against a bank in process of liquidation may be assigned in whole or in part subject to the approval of the department. Assignments of claims are binding upon the department only after they have been filed and allowed by the department, and ~~only then~~ are subject to the payment of the assignor's liabilities to the bank. An assignment shall be made by filing written notice, signed by the original claimant, with the department or person in charge of the bank. No assigned claims may be offset against obligations due the bank. A check or draft drawn against a bank closed or taken possession of by the department, whether issued before or after closing, ~~shall~~ may not be recognized as a claim against the bank, or as an assignment of any amount, whether protested or not protested."

Section 26. Section 5-1126, R.C.M. 1947, is amended to

read as follows:

"5-1126. Power of closed banks to borrow money from governmental agencies. After applying to and obtaining the approval of the department and the district court of the county in which the bank or trust or investment company is located, and ~~Notwithstanding~~ notwithstanding any other law, the liquidating agents of closed banks may borrow money from an agency of the federal government on behalf of commercial banks, savings banks, trust companies, and investment companies closed and in liquidation, ~~and--as~~ As security for the loan the liquidating agent may pledge or mortgage the assets and properties thereof, for the purpose of paying depositors or creditors in part or in full, ~~after--applying to--and--obtaining--the--approval-of-the--department-and-the district-court-of-the-county-in-which-the-bank,-or-trust--or investment--company--is--located,-upon-the-court-proceedings prescribed-in-section-5-1107.~~"

Section 27. Section 5-1508, R.C.M. 1947, is amended to read as follows:

"5-1508. Transfer of fiduciary relationships between affiliated banks. (1) Any bank which has received approval, pursuant to ~~section-6~~ [5-1506] to maintain a trust office in the same building with the main office of any affiliated bank may file its verified application in the district court of the county in which its main office is located requesting

that it be substituted, except as may be expressly excluded in such application, in every fiduciary capacity for such affiliated bank, and such affiliated bank shall join in such application. Such application shall indicate the county wherein the main office of such affiliated bank is located and shall designate each fiduciary account existing at the date thereof with respect to which the applicant bank requests substitution, but fiduciary capacities in other cases need not be listed. Such application shall additionally set forth, with regard to each existing fiduciary account designated therein, the name and address last known to the applicant of each person entitled to mailed notice of hearing thereon, who shall be those persons specified in subsections (1)(a) to through (1)(e), ~~inclusive~~, of ~~section~~ 5-1507.

(2) When any such application ~~shall have~~ has been filed, the clerk of the court where filed shall make an order fixing a date and time for hearing thereon and shall cause notice thereof to be given by publication and mailing in the manner required by ~~section~~ 5-1507.

(3) The notice to be published and mailed with respect to each ~~such~~ application shall state the time and place of the hearing thereon, the name of the bank which has filed the application, the name of the affiliated bank which has joined in such application, that the application requests

that the applicant bank be substituted in every fiduciary capacity for the affiliated bank specified in the application, and that any person beneficially interested in any affected fiduciary account may appear on or before the date of hearing and file his written objection to such substitution as to such affected fiduciary account, and such notice shall refer to such application for further particulars.

(4) On or before the date and time of hearing any such application, any person beneficially interested in any fiduciary account as to which substitution of the applicant bank is requested, may appear and file objection to substitution, and shall be entitled to be heard with respect to such objection.

(5) On such date of hearing, upon finding that due notice has been given as required by this act and upon finding that the applicant bank has received the requisite approval from the department ~~of business regulation~~, or the comptroller of the currency if the applicant bank is a national banking association, the district court shall enter an order substituting the applicant bank in every fiduciary capacity for the affiliated bank designated in the application, excepting as may be otherwise specified in the application, and excepting fiduciary capacities in any account with respect to which an objection has been filed

pursuant to this section. Upon entry of such order, the applicant bank shall, without further act, be substituted in every such fiduciary capacity. Such substitution may be made a matter of record in any county of this state by filing a certified copy of the order of substitution in the office of the clerk of any district court in this state or by filing a certified copy of such order in the office of the clerk and recorder of any county in this state to be by such officer recorded and indexed in like manner and with like effect as other orders and decrees of court are recorded and indexed.

(6) Each designation, in a will or other instrument heretofore or hereafter executed, of a bank as fiduciary shall be deemed a designation of the applicant bank substituted for such bank pursuant to this section except where such will or other instrument is executed after such substitution and expressly negates the application of this section. Any grant in any such will or other such instrument of any discretionary power shall be deemed conferred upon the applicant bank deemed designated as the fiduciary pursuant to this section.

(7) A bank shall account jointly with the applicant bank which has been substituted as fiduciary for such bank pursuant to this section for the accounting period during which the applicant bank is initially so substituted. Upon

substitution pursuant to this section, the affiliated bank for which substitution has been made shall deliver to such applicant bank all assets held by such affiliated bank as fiduciary (except assets held for accounts with respect of which there has been no substitution pursuant to this section) and upon such substitution all such assets shall become the property of such applicant bank without the necessity of any instrument ~~or~~ of transfer or conveyance."

Section 28. Section 7-102, R.C.M. 1947, is amended to read as follows:

"7-102. Articles of incorporation -- contents. Whenever any number of persons, not less than five ~~(5)~~, ~~shall~~ desire to incorporate a building and loan association, having for its object the conduct and operation of such an association as defined in this act, they shall prepare and file articles of incorporation to that effect in the manner specified in this act, ~~specified, such~~ Such articles shall be signed, sealed, and acknowledged in the form now provided by the statutes of this state for the conveyance of real estate, and shall include the following:

~~1.~~ (1) ~~The~~ the name of the association, ~~The name shall~~ which may not be the same as, ~~nor~~ or too closely resemble, that in use by any existing corporation established under the laws of this state. The words "building and loan association" or "savings and loan association" shall form a

part of the name, and no a corporation not organized under this act ~~shall be entitled to~~ may not use a name embodying ~~said~~ that combination of words~~;~~, provided, that the associations ~~now~~ existing as of May 1, 1927, may continue their present names~~;~~.

~~2.~~(2) ~~The~~ the principal office, or place of business of the association which shall be within this state;

~~3.~~(3) ~~The~~ the amount of its capital stock and the number of shares into which the same shall be divided~~;~~. ~~such~~ The capital stock shall be divided into shares having a par value of ~~one hundred dollars ($100.00)~~;

~~4.~~(4) ~~*~~ a provision that such association is organized under this act for the purposes herein expressed;

~~5.~~(5) ~~The~~ the names and residences of the persons who subscribed and acknowledged the ~~said~~ declaration, a majority of whom shall be citizens of this state, and shall thereafter be called incorporators."

Section 29. Section 7-112, R.C.M. 1947, is amended to read as follows:

"7-112. Proxies. At least once every year the board of directors of every building and loan association shall, by resolution, ~~direct~~ cause the secretary of such association ~~and he shall~~ to mail to every stockholder of such association a blank form of proxy, and the stockholder ~~shall have the right and privilege of withdrawing~~ may withdraw his

former proxy and ~~of substituting~~ substitute another in its stead. Every proxy shall continue in force and be binding upon the stockholder until such proxy is revoked or ~~an~~ another substituted."

Section 30. Section 7-139, R.C.M. 1947, is amended to read as follows:

"7-139. Obtaining property by fraud, ~~or~~ false report, ~~or~~ refusal to permit inspection of books. A director, officer, agent, or employee of a building and loan association is guilty of a felony who:

(1) ~~wilfully~~ willfully receives or possesses any of its property, otherwise than in payment for a just demand, and with intent to defraud~~;~~:

(a) omits to make or ~~direct~~ directs to be made a full and true entry of it in its books and accounts;

~~(2)~~(b) ~~concurs~~ concurs in omitting to make a material entry thereof;

~~(3)~~(2) ~~wilfully~~ willfully makes or concurs in making or publishing a written report, exhibit, or statement of the association's affairs or pecuniary condition, containing any material statement which is false; or

~~(4)~~(3) ~~having~~ having the custody or control of the association's books, willfully refuses or neglects to make a proper entry in the books as required by law, or to exhibit, or allow them to be inspected and extracts to be taken from

them by the department ~~is guilty of a felony.~~"

Section 31. Section 7-156, R.C.M. 1947, is amended to read as follows:

"7-156. Conversion ~~of building and loan and other home financing institutions~~ into federal savings and loan associations. Any building and loan association or other home financing organization, by whatever name or style it may be designated, eligible to become a federal savings and loan association may convert itself into a federal savings and loan association by following the procedure hereinafter outlined~~:~~:

~~A.~~(1) At any regular meeting of the shareholders of any such association or at any special meeting of the shareholders of such association, in either case called to consider such action and held in accordance with the laws governing such association, such shareholders, by an affirmative vote of the majority of ~~said~~ the shareholders, in person or by proxy, may declare by resolution the determination to convert ~~said~~ the association into a federal savings and loan association.

~~B.~~(2) A copy of the minutes of ~~such~~ the meeting of the shareholders verified by the affidavit of the president or vice-president and the secretary of the meeting shall be filed with the department of business regulation within ~~ten~~ 10 days after ~~said~~ the meeting~~, in the office or department~~

~~of this state having supervision of such association. Such~~ The verified copy of the minutes of such meeting when so filed shall be presumptive evidence of the holding and of the action of such meeting.

~~C.~~(3) Within a reasonable time and without any unnecessary delay after the adjournment of such meeting of shareholders, such association shall take ~~such~~ any action ~~as may be~~ necessary to make it a federal savings and loan association, and within ten 10 days after receipt of the federal charter there shall be filed ~~in the office or department of this state having supervision of such association~~ with the department of business regulation a copy of ~~said~~ the charter issued to such association by the federal home loan bank board or a certificate showing the organization of such association as a federal savings and loan association certified by, or on behalf of, the federal home loan bank board. Upon the filing of such instrument such association shall cease to be a state association and shall thereafter be a federal savings and loan association."

Section 32. Section 14-605, R.C.M. 1947, is amended to read as follows:

"14-605. Amendments. (1) The articles of incorporation or the bylaws may be amended as provided in the bylaws. Amendments to the articles of incorporation or bylaws shall be submitted to the director of the department of business

regulation who shall approve or disapprove the amendments within ~~sixty (60)~~ days.

(2) Amendments shall become effective upon:

(a) approval in writing by the director, and for which no fee ~~shall~~ may be charged; ~~for such approval~~; and

(b) IN THE CASE OF ARTICLES OF INCORPORATION, filing with the secretary of state."

Section 33. Section 14-665, R.C.M. 1947, is amended to read as follows:

"14-665. Liquidation. (1) A credit union may elect to dissolve voluntarily and liquidate its affairs in the manner prescribed in this section and the applicable Montana corporation laws.

(2) The board of directors shall adopt a resolution recommending the credit union be dissolved voluntarily, and directing that the question of liquidation be submitted to the members.

(3) Within ~~ten (10)~~ days after the board of directors decides to submit the question of liquidation to the members, the president shall notify the director of the department of business regulation thereof in writing, setting forth the reasons for the proposed action. Within ~~ten (10)~~ days after the members act on the question of liquidation, the president shall notify the director in writing as to whether or not the members approved the

proposed liquidation.

(4) As soon as the board of directors decides to submit the question of liquidation to the members, payment on shares, withdrawal of shares, making any transfer of shares to loans and interest, making investments of any kind, and granting loans shall be suspended pending action by members on the proposal to liquidate. On approval by the members of such proposal, all such business transactions shall be permanently discontinued. Necessary expenses of operation shall, however, continue to be paid on authorization of the board of directors or liquidating agent during the period of liquidation.

(5) For a credit union to enter voluntary liquidation, approval by a majority of the members in writing or by a two-thirds ~~(2/3)~~ majority of the members present at a regular or special meeting of the members is required. ~~Where~~ If authorization for liquidation is to be obtained at a meeting of the members, notice in writing shall be given to each member, by ~~first class~~ first-class mail, at least ~~ten (10)~~ days prior to such meeting.

(6) A liquidating credit union shall continue in existence for the purpose of discharging its debts, collecting and distributing its assets, and doing all acts required in order to wind up its business and may sue and be sued for the purpose of enforcing such debts and obligations

until its affairs are fully adjusted.

(7) The board of directors ~~of~~ or the liquidating agent shall use the assets of the credit union to pay:

(a) expenses incidental to liquidating, including any surety bond that may be required;

(b) any liability due nonmembers; and

(c) special purpose thrift accounts as provided in this act. Assets then remaining shall be distributed to the members proportionately to the shares held by each member as of the date dissolution was voted.

(8) As soon as the board of directors or the liquidating agent determines that all assets from which there is a reasonable expectancy of realization have been liquidated and distributed as set forth in this section, ~~they~~ he shall execute a certificate of dissolution on a form prescribed by the department ~~of business regulation~~ and file the same with the department, together with all pertinent books and records of the liquidating credit union, ~~with the department of business regulation~~ whereupon such credit union shall be dissolved."

Section 34. Section 15-2603, R.C.M. 1947, is amended to read as follows:

"15-2603. Incorporators -- general powers -- capital stock -- articles of incorporation. Nine ~~(9)~~ or more persons, a majority of whom shall be residents of this

state, who ~~may~~ desire to create a development credit corporation under the provisions of this act, for the purpose of promoting, developing, and advancing the prosperity and economic welfare of the state and, to that end, to exercise the powers and privileges hereinafter provided, may be incorporated in the following manner:

~~(1)~~ ~~such~~ Such persons shall by articles of incorporation filed in the manner prescribed in Title 15 ~~of the Revised Codes of Montana 1947~~, under their hands and seals, set forth:

~~(1)~~(a) ~~The~~ the name of the corporation, which shall include the words "Development Credit Corporation of Montana";

~~(2)~~(b) ~~The~~ the location of the principal office of the corporation, but such corporation may have offices in such other places within the state as may be fixed by the board of directors;

~~(3)~~(c) ~~The purpose~~ the purposes for which the corporation is founded, which shall include the following:

~~(a)~~(i) ~~To~~ to elect, appoint, and employ officers, agents, and employees;

(ii) to make contracts and incur liabilities for any of the purposes of the corporation; provided, that the corporation ~~shall~~ may not incur any secondary liability by way of guaranty or endorsement of obligations of any person,

firm, corporation, joint-stock company, association, or trust, or in any other manner;

~~(b)~~(iii) ~~To~~ to borrow money from the members, nonmember persons, firms, or corporations, and state and federal agencies, for any of the purposes of the corporation; to issue therefor its bonds, debentures, notes, or other evidences of indebtedness, whether secured or unsecured, and to secure the same by mortgage, pledge, deed of trust, or other lien on its property, franchises, rights, and privileges of every kind and nature or any part thereof or interest therein, without securing stockholder or member approval; provided, that no loan to the corporation ~~shall~~ may be secured in any manner unless all outstanding loans to the corporation ~~shall be~~ are secured equally and ratably in proportion to the unpaid balance of such loans and in the same manner;

~~(c)~~(iv) ~~To~~ to make loans to any person, firm, corporation, joint-stock company, association, or trust, and ~~to~~ establish and regulate the terms and conditions with respect to any such loans and the charges for interest and service connected therewith; provided, however, that the corporation ~~shall~~ may not approve any application for a loan unless ~~and until~~ the person applying for ~~said~~ the loan ~~shall~~ ~~show~~ shows that he has applied for the loan through ordinary banking channels and that the loan has been refused by at

least one bank or other financial institution;

~~(d)~~(v) ~~To~~ to participate with any duly authorized private lending agency, and city, state, and federal governmental lending agencies in the making of loans;

~~(e)~~(vi) ~~To~~ to purchase, receive, hold, lease, or otherwise acquire, and to sell, convey, transfer, lease, or otherwise dispose of real and personal property, together with such rights and privileges as may be incidental and appurtenant thereto and the use thereof, including, but not restricted to, any real or personal property acquired by the corporation from time to time in the satisfaction of debts or enforcement of obligations;

~~(f)~~(vii) ~~To~~ to acquire the good will, business, rights, real and personal property, and other assets, or any part thereof, or interest therein, of any persons, firms, corporations, joint-stock companies, associations, or trusts, and to assume, undertake, or pay the obligations, debts, and liabilities of any such person, firm, corporation, joint-stock company, association, or trust;

(viii) to acquire improved or unimproved real estate for the purpose of constructing industrial plants or other business establishments thereon or for the purpose of disposing of such real estate to others for the construction of industrial plants or other business establishments; ~~and~~

(ix) to acquire, construct, or reconstruct, alter,

repair, maintain, operate, sell, convey, transfer, lease, or otherwise dispose of industrial plants or business establishments;

~~(g)~~(x) ~~To~~ to acquire, subscribe for, own, hold, sell, assign, transfer, mortgage, pledge, or otherwise dispose of the stock, shares, bonds, debentures, notes, or other securities and evidences of interest in, or indebtedness of, any person, firm, corporation, joint-stock company, association, or trust, and while the owner or holder thereof to exercise all the rights, powers, and privileges of ownership, including the right to vote thereon;

~~(h)~~(xi) ~~To~~ to mortgage, pledge, or otherwise encumber any property, right, or thing of value, acquired pursuant to the powers contained in ~~paragraphs (e), (f), or (g)~~ subsections (1)(c)(vi) through (1)(c)(x) of this section, as security for the payment of any part of the purchase price thereof;

~~(i)~~ (xii) ~~To co-operate~~ to cooperate with and avail itself of the facilities of the state planning and economic development ~~department~~ divisions of the department of community affairs and any similar governmental agencies; and to ~~co-operate~~ cooperate with, ~~and~~ assist, and otherwise encourage organizations in the various communities of the state in the promotion, assistance, and development of the business prosperity and economic welfare of such communities

or of this state or of any part thereof;

~~(j)~~(xiii) ~~To~~ to accept gifts, donations, bequests, devises, or grants from any person, corporation, association, or governmental agency, whether state, federal, or municipal;

~~(k)~~(xiv) ~~To~~ to do all acts and things necessary or convenient to carry out the powers expressly granted in this act;

~~(4)~~(d) ~~The articles of incorporation shall set forth~~ the amount of total authorized capital stock and the number of shares in which it is divided, the par value of each share, ~~and~~ the amount of capital stock with which it will commence business, and, if there is more than one class of stock, a description of the different classes, and the names and post-office addresses of the subscribers of stock and the number of shares subscribed by each. The aggregate of the subscription shall be the amount of capital with which the corporation will commence business.

~~(5)~~(2) The articles of incorporation may also contain any provision consistent with the laws of this state for the regulation of the affairs of the corporation or creating, defining, limiting, and regulating its powers. The articles of incorporation shall be in accordance with the provisions of Title 15, ~~Revised Codes of Montana 1947~~, so far as consistent with this act."

Section 35. Section 47-209, R.C.M. 1947, is amended to read as follows:

"47-209. License renewal fee ~~--failure--to-pay--effect--license--when-in-force~~. Every licensee shall, on or before ~~the--first--day--of~~ December 1, pay to the department the sum of ~~one--hundred--twenty-five--dollars (~~$125.00~~)~~ for each license held as a ~~licensee~~ license fee for the succeeding calendar year. Failure to pay such license fee within the time prescribed shall automatically revoke such license."

Section 36. Section 47-211, R.C.M. 1947, is amended to read as follows:

"47-211. Installment payment -- contract period. (1) No licensee ~~shall~~ may enter into any contract of loan:

(a) of ~~three-hundred-dollars (~~$300~~)~~ or less, exclusive of charges, under ~~this act~~ which the borrower agrees to make any scheduled repayment of principal more than ~~twenty-one (~~21~~)~~ calendar months from the date of making such contract; ~~nor any contract of loan~~

(b) for more than ~~three-hundred-dollars (~~$300~~)~~ to and including ~~one--thousand--dollars--(~~$1,000~~)~~, exclusive of charges, under which the borrower agrees to make any scheduled repayment of principal more than ~~twenty-five--(~~25~~)~~ calendar months from the date of making; ~~nor any contract of loan~~

(c) for more than ~~one-thousand-dollars (~~$1,000~~)~~ to and including ~~two--thousand--dollars--(~~$2,000~~)~~, exclusive of charges, under which the borrower agrees to make any scheduled repayment of principal more than ~~thirty-seven (~~37~~)~~ calendar months from the date of making; ~~nor any contract of loan~~ or

(d) for more than ~~two-thousand-dollars (~~$2,000~~)~~ to and including ~~two-thousand-five--hundred--dollars--(~~$2,500~~)~~, exclusive of charges, under which the borrower agrees to make any scheduled repayment of principal more than ~~thirty-seven (~~37~~)~~ calendar months from the date of making.

(2) Every loan contract shall require payment of principal and charges in installments which shall be payable at approximately equal periodic intervals, except that payment dates may be omitted to accommodate borrowers with seasonal incomes. No installment contracted for ~~shall~~ may be substantially larger than any preceding installment. When a loan contract provides for monthly installments, the first installment may be payable at any time within ~~forty-five (~~45~~)~~ days of the date of the loan and the charges for the number of days in excess of ~~thirty (~~30~~)~~ from the date of making may be added to the scheduled amount of ~~said~~ the installments."

Section 37. Section 47-220, R.C.M. 1947, is amended to read as follows:

"47-220. Wage assignments -- limitations. (1) The payment in money, credit, goods, or things in action, as consideration for any sale or assignment of, or order for the payment of wages, salary, commission, or other compensation for services, whether earned or to be earned, shall, for the purpose of regulation under this act, be ~~deemed~~ considered a loan secured by such assignment, and the amount by which the assigned compensation exceeds the amount of the consideration actually paid, shall, for the purposes of regulation under this act, be ~~deemed~~ considered interest or charges upon the loan from the date of payment to the date the compensation is payable. Such transactions shall be governed by and be subject to the provisions of this act.

(2) Any assignment or other transfer to a licensee or for the benefit of a licensee, of salary, wages, commissions, or other compensation for services, must be limited to not exceeding ~~ten per cent (10%)~~ of such salary, wages, commissions, or other compensation owing at the time of the notice to the debtor's employer, ~~hereinafter provided~~, and thereafter to become owing. ~~Provided, however~~, However, no such assignment or order ~~shall be~~ is valid unless it is in writing, signed in person by the borrower, or if the borrower is married, unless it is signed in person by both husband and wife, provided that written assent of a spouse ~~shall not be~~ is not required when husband and wife

have been and are living separate and apart when such assignment or order is made. ~~Such notice shall be given only if~~ If ONLY IF the debtor defaults in payment of the whole or some part of the loan for which such assignment or transfer is security, ~~notice shall~~ SHALL NOTICE be given to the debtor's employer of such assignment or transfer. Such notice must be served on the employer or a managing agent of such employer, must be verified by the oath of the licensee or his agent, and must include:

(a) ~~A~~ a correct copy of the assignment;

(b) ~~A~~ a statement of the amount of such loan and the amount due and unpaid thereon;

(c) ~~A~~ a copy of this section.

(3) The acceptance and honoring of any assignment shall be at the option of the employer."

Section 38. Section 47-226, R.C.M. 1947, is amended to read as follows:

"47-226. Access to records -- witnesses. For the purpose of this ~~section~~ chapter the department or its duly authorized representatives shall ~~have and~~ be given free access to the offices and places of business, files, safes, and vaults, of all such persons, and ~~shall have authority to~~ may require the attendance of any person and ~~to~~ examine him under oath relative to such loans or such business or to the subject matter of any examination, investigation, or hearing

and ~~shall have authority to~~ may require the production of books, accounts, papers, and records. In the event of disobedience to any subpoena or other process issued by the department or failure to produce any books, accounts, papers, and records, the department may invoke the aid of any district court of this state in requiring the evidence and testimony of witnesses and the production of books, accounts, papers, and records."

Section 39. Repealer. Section 5-1125, R.C.M. 1947, is repealed.

-End-